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Labour Migration Management as Multidimensional Border-drawing: A Comparative Interpretive Policy Analysis in the EU

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Labour Migration Management as Multidimensional Border-drawing: A Comparative Interpretive Policy Analysis in the EU

Regine Paul

A thesis submitted for the degree of Doctor of Philosophy

University of Bath

Department of Social and Policy Sciences

December 2011

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Declaration

Reflections on governance as political ordering of social relations in chapter 2 are greatly inspired by discussions and intellectual exchange in the *Governance Research Group* at the Department of Social and Policy Sciences of the University of Bath.

In relation to the EU context of migration policy, this thesis draws on ideas and empirical findings that have been developed in joint research work with Emma Carmel, in particular:

- Carmel, Emma and Regine Paul (2010): "Il difficile percorso verso la coerenza nella governance Ue della migrazione." [The Struggle for Coherence in EU Migration Governance], in *La Rivista delle Politiche Sociali [Italian Journal of Social Policy]*, 1/2010, pp. 209-230
- Carmel, Emma and Regine Paul (2009) "From stratification to bricolage: Politics, markets and migrant rights in the EU." ECPR General Conference, 10-12 September 2009, University of Potsdam, Germany (re-drafted paper to be submitted to *Journal of Common Market Studies* in January 2012)

A joint publication has informed my analysis of the German case:

- Kaiser, Lutz and Regine Paul (2011): "Differential inclusion in Germany's conservative welfare state: policy legacies and structural constraints." Carmel, E., Cerami, A. and T. Papadopoulos (eds): *Migration and welfare in the 'new' Europe. Social protection and the challenges of integration*. Policy Press, Bristol, pp. 121-142

Parts of this thesis' empirical analysis have been published or accepted for publication:

- Paul, Regine (2011) "European labor geography in crisis: free movement, labor migration and the variable governance of foreign workers in Germany, France and Britain." *Perspectives on Europe*, 41(2), pp.
- Paul, Regine (forthcoming): "Limits of the competition state? The cultural political economy of European labour migration policies." *Critical Policy Studies*, 6(4), out in autumn 2012
- Paul, Regine (forthcoming) "Managing diverse policy contexts: The welfare state as repertoire of policy logics in German and French labour migration governance." Vad Jønsson, H. et al. (eds): *Migration, institutions and Nordic welfare states. Negotiating practices of inclusion and exclusion*. In NordWel book series out in autumn 2012

Abstract

This thesis examines and compares current labour migration management of non-EU workers in Germany, France and the United Kingdom. It aims to explain cross-national similarities and differences from an interpretive policy analysis perspective. The research entails analyses of 33 legal documents and in-depth interviews with 25 high-ranking policy-makers and is anchored in case contexts. In order to gain comparative explanations the analysis maps legal classifications and rights regimes governing incoming migrant workers, explores meanings policy-makers vest in these, and thereby reconstructs the economic, social and political normative references these meanings entail in comparative perspective.

By conceptualising migration policy as border-drawing I challenge the main stream migration policy literature, offering an alternative approach which changes the parameters of policy analysis more generally. While most migration policy research concentrates on explaining the control gap between restrictive admission policies and de facto migratory flows, I shift the analytical focus towards states' power to define legal and illegal positions through policy and allocate rights in a differential way. Empirically, I overcome partial policy accounts by contributing a multidimensional analysis of labour migration policy across its economic, social, and politico-formal dimension, and develop an innovative methodology to explain cross-national variation in the interaction of these aspects. By associating each dimension with a specific border-drawing site – capitalist coordination system, welfare state regime, and citizenship model – the thesis utilises regime theories to develop benchmarks for the empirical analysis while at the same time testing the explanatory scope of these theories in the field of labour migration.

Migrant workers are selected by skill level and labour scarcity in all three cases in line with widely shared economic values surrounding labour migration agendas. Yet, the analysis also pinpoints considerable divergences when selecting migrants by origin, social cohesion concerns or with annual caps. The variable labour geographies into which migrant workers are admitted – mainly relating to post-colonial relationships, distinct uses of EU free movement, and demographic context – are seized by policy actors to selectively contextualise economic border-drawing. It is this distinct socio-political contextualisation of a shared cultural political economy of labour migration which explains similarities and differences in European labour migration management. The thesis hence contributes an empirically detailed understanding of an integrating EU common market which coexists with persistently diverging labour geographies and societies. Findings bear considerable policy implications in terms of European integration and the unequal distribution of labour mobility rights for migrants in Europe.

List of Abbreviations

A2	Bulgaria and Romania, accession countries to the EU in 2007
A8	Eastern and Central European accession countries to the EU in 2004 (without Malta and Cyprus)
ADV	Advisors (used to distinguish interviewees who are policy advisors in analysis)
BA	Bundesagentur für Arbeit (German Federal Employment Agency)
BAMF	Bundesamt für Migration und Flüchtlinge (German Bureau for Migrants and Refugees)
BIS	Department for Business, Innovation and Skills (UK)
BMAS	Bundesministerium für Arbeit und Soziales (German Ministry for Employment and Social Affairs)
BMWA	Bundesministerium für Wirtschaft und Arbeit (German Ministry for the Economy and Employment)
BMI	Bundesministerium des Innern (German Home Office)
BUS	Business (used to distinguish interviewees who are high-ranking employer representatives in analysis)
CEC	Commission of the European Communities (EU Commission)
Ceseda	Code de l'Entrée et du Séjour des Étrangers et du Droit d'Asile (French Migration, Residence and Asylum Law)
CEU	Council of the European Union (EU Council)
CME	Coordinated market economy
CPE	Cultural political economy (shorthand for Bob Jessop and Ngai-Ling Sum's approach as delineated in chapter 2)
DDETFP	Directions Départementales de l'Emploi, du Travail et de la Formation Professionnelle (French Departmental Employment Agencies)
EC	European Communities
EU	European Union
EU-15	EU member states before accession round in 2004
FRA	France (used to distinguish French interviewees in analysis)
GER	Germany (used to distinguish German interviewees in analysis)

GISTI	Groupe d'information et de soutien des immigrés (French migrant advocacy and support group)
GOV	Government (used to distinguish interviewees who are government officials and ministers in analysis)
ICT	Intra-corporate transfer (of employees)
INSEE	L'Institut National de la Statistique et des Etudes Economiques (French National Institute of Statistics and Economic Studies)
IPA	Interpretive policy analysis
IT	Information technology
LME	Liberal market economy
LTR	Long-term resident/ long-term residence
MAC	Migration Advisory Committee (UK institution)
MIIDS	Ministère de l'Immigration, de l'Intégration, d'Identité Nationale et du Développement Solidaire (French Migration Ministry, abolished in December 2010)
NAO	National Audit Office (UK)
OECD	Organisation for Economic Co-operation and Development
OFII	Office Française d'Immigration et de l'Intégration (French Bureau for Migration and Integration)
ONS	Office for National Statistics (UK)
PBS	Points-based (immigration) system
PSZ	Priority solidarity zones (zones de solidarité prioritaires, French term to define developing countries from which to avoid migrant brain drain)
RLMT	Resident labour market test
TCN	Third-country national (someone without EU citizenship)
UK	United Kingdom (also used to distinguish British interviewees in analysis)
UKBA	UK Border Agency
UNI	Trade union (used to distinguish interviewees who are high-ranking trade union representatives in analysis)
VET	Vocational education and training
VoC	Varieties of capitalism

1 Introduction

“Die Guten ins Töpfchen, die Schlechten ins Kröpfchen”¹

Foreign workers play a significant role in European labour markets: in 2009 they accounted for more than 13 per cent of the Austrian, 10 per cent of the Belgian and Spanish, 9 per cent of the German and roughly 8 per cent of the Italian and British labour force (OECD 2011). Significance does not just build on sheer numbers; foreign workers also matter qualitatively as they often assuage more structural bottlenecks in specific sectors or regions, in formal as well as informal labour markets. Whether we consider food processing, agriculture, hospitality and catering, social care work, medical professions, specific engineering skills or high-skilled information technology specialists: migrant workers play an important role in keeping sectors productive and competitive (for a UK example see: Ruhs and Anderson 2010b). Due to this central role in coping with often more systemic labour shortages, scholars predict labour migration to be relatively resilient in the current economic crisis (Castles 2011; Koser 2010).

The resilience of foreign worker recruitment seems to be at odds with accounts of control backlashes against migrant workers across all 27 European member states. When asked what the most important issues facing their country were in autumn 2010 (Eurobarometer), 12 per cent of Europeans uttered concern about immigration. The 2009 breakdown of global financial markets has pushed national labour market protectionism back onto the centre stage of economic governance across the EU. A press release summarises the tendency as follows: “throughout the EU, the first to be hit by job cuts appear to be foreign workers. In the UK, Prime Minister Gordon Brown called for ‘British jobs for British workers’, but similar outbursts of job market nationalism have emerged as far away as Romania” (EurActiv 2009). While foreign labour flows continue to fulfil important roles in European labour markets, host societies are only partially welcoming – to say the least –, and governments seem determined to control and limit migration.

In light of the tensions between the perceived economic utility of migration and societal closure reactions described above, ‘labour migration management’ seems to offer a welcome remedy in European policy-making. This policy approach, surfacing in the EU and member states since the early 2000s, constitutes this thesis’ research focus. Before detailing this interest and narrowing down the scope of this study, a brief synopsis of labour migration management in the EU as an empirical terrain seems apt.

¹ In the fairy tale ‘Aschenputtel’ as recorded by the Brothers Grimm, Cinderella – with some help by friendly pigeons – sorts lentils by putting “the good into the pot, the bad into the crop”.

1.1 The Empirical Terrain: 'Migration management' in Twenty-first Century Europe

Labour migration management is a relatively recent policy approach in the EU and OECD world. Embracing the Lisbon Agenda's growth, competitiveness and employment targets, the EU Commission has increasingly promoted the reconciliation of labour recruitment with security and protectionist concerns under the umbrella of so-called 'managed economic migration' since 2001. A Green Paper has been the most detailed attempt to set up a Union-wide agenda (CEC 2004). In a later communication, the Commission argues that "immigration is a reality which needs to be managed effectively" (CEC 2008: 2). Similarly, the OECD pursues 'a road-map for managing labour migration' in a recent policy plan, positing that "labour migration management has become an imperative" for policy-makers in rich economies across the globe (OECD 2009: 78). In light of three qualitative policy shifts – recent liberalisation after decades of closure, embeddedness in the post-Fordist political economy and interaction with the EU's regulatory framework – labour migration management in the twenty-first century represents a novel policy terrain in need of closer scrutiny.

Firstly, more generally speaking, recent legal liberalisations to extra-EU labour admissions represent a discontinuity of the general recruitment stop in European economies. The return to active recruitment policies in Western Europe, after foreign labour entries had been officially suspended during the economic crisis in the early 1970s, reflects a more general tendency across the OECD (Dumont and Doudeijns 2003). Policy reforms across the EU indicate that migrant workers are once again welcome: e.g. Britain lifted entry conditions for high-skilled and skilled workers in 2002, Germany created a new permit for high-skilled professionals in 2005, France followed with similar measures in 2006, Ireland established a Green Card for high-skilled migrants in 2006, and Denmark operates a 'positive list' with qualified shortage professions since 2008. These quite recent U-turns in labour migration management render it a particularly timely and underexplored research field. The examples stated equally highlight the key role that policy-makers in the EU, OECD and member states attribute to legislation within the labour migration management approach. A thorough understanding of the legal infrastructure created in this policy field seems indispensable.

Secondly, the recent return to labour migration entails a qualitative change of directions compared to the guest-worker recruitment schemes of the 1950s and 1960s in post-War Europe. The list of specific policy tools operating in labour migration management today is long and can certainly not be exhaustive here (see OECD 2008a). But a brief illustration of some main tools highlights fine-tuned selectivity of migrant workers as a common feature in contemporary labour migration policies. Canada, the US and the UK, for instance, use points-based migration systems

(PBS) to select workers on the basis of their qualifications, language proficiency and so on. Many countries use resident labour market tests and shortage lists (e.g. France, Germany, Denmark, Spain) to admit migrants to fill shortages. They also apply bilateral agreements with specific sending countries for certain professions and occupations (very common in seasonal work, but also elsewhere), or operate special permits to recruit workers of a particular skills set (German Green Card for IT workers, or the Irish high-skilled permit). Regularisations (in Mediterranean countries, but also France and Belgium) are often used to recruit informal workers in shortage professions. Moreover, labour entries are subject to *quotas* or *caps* in some cases, sometimes in interaction with country-reserved shares for entries from specific sending countries (e.g. Italy, France). In addition we find a vast array of different permits and rights regimes attached to admissions, as well as additional conditions such as financial self-maintenance in independence from welfare benefits.

Without going into a detailed analysis of these policy tools yet (this will be part of the analysis in chapters 6-8), their mere listing exposes a pattern of highly fine-tuned, sophisticated, but also nationally variable selectivity in labour migration. In many respects the emphasis of demographic and economic admission drivers, the attempt to limit social rights for temporary workers, and the application of circular migration schemes seem to recall the spirit of the guest-worker period (Castles 2006). Yet, from the brief description of the empirical terrain above, managed migration seems to entail very “carefully delineated (labour) migration channels” as well as a much “more restrictive stance towards other venues” compared to the old recruitment schemes (Menz 2009: 31). More than ever before, governments seem busy fine-tuning definitions of admissible migrant workers, legitimate entry routes and work places with regard to various individual properties such as skills and qualifications, professional profile, scarcity of their skills, economic sector, country of origin, age, earnings and so on.

Accounts of labour migration policies in the twenty-first century commonly acknowledge that highly selective and fine-tuned approach to recruitment starkly departs from the unskilled labour needs and sheer ‘manpower’ recruitment in the guest-worker period (Caviedes 2010; Menz 2010a; Menz and Caviedes 2010a; Ruhs and Anderson 2010b). This policy change is usually ascribed to a common shift from Fordist to post-Fordist production in Western economies, mainly associated with the end of mass production, the simultaneous rise of highly specialised and flexibilised production, and the increasing relevance of the service sector. In order to account for the new quality of labour recruitment today, respective policy analysis “should be embedded within the larger discourse on the changing political economy of Europe and in the world” (Menz and Caviedes 2010a: 4). As labour migration management is firmly contextualised in a specific

global, European and national economic mis-en-scène, the policy analysis endeavoured in this thesis has to take the surrounding political economy into account.

Thirdly, labour migration management in European member states is also an expression of the EU's common market-making agenda. It seems that the image of the EU as 'fortress' is increasingly flawed and needs replacing with a notion of a 'market-building' community that admits migrant workers when considered economically useful (Favell and R. Hansen 2002; Hansen 2010). The EU's migration policy agenda has long been preoccupied with control issues of securing borders and policing the Schengen area against nominally unlawful entries and residents. Only recently has the acknowledgement of alleged economic benefits of regulated labour migration added an economic dimension to EU migration policy officially (Carmel and Paul 2010). Under the influence of the Lisbon Agenda as well as the European Employment Strategy, the EU Commission now regards the harmonised management of economic migration a crucial means of achieving employment, growth and competitiveness objectives (CEC 2005).

Indeed, the embracement of comparable policies across the EU indicates that the Commission's shift in policy directions towards promoting labour migration as an economic growth strategy reflects a shared European (and wider) policy agenda in post-Fordist economies, irrespective of member states' reluctance to integrate admission policies further. Indeed, the introduction of an EU-wide 'Blue Card' for highly-skilled foreign workers (CEU 2009) indicates scope for small-scale harmonisations and shared purposes of economic governance. Moreover, the common framework of intra-EU free movement has meant that member states cannot – or only in very limited ways – control labour movements of fellow EU-nationals. Free movement as a market-making tool hence directly affects labour movements in each member state. Intra-EU labour mobility might further influence the admission of non-EU workers as well.

However, member states remain the most relevant actors in the regulation of labour admission. While issues of migrant integration, common border control and asylum control are a shared competency between the supranational initiatives of the Commission and the intergovernmental decision-making in the Council, member states have so far largely resisted harmonisation attempts initiated by the EU Commission in the realm of legal labour admissions from third countries. While the Lisbon Treaty made TCN labour migration subject to the community method of decision-making in the EU in 2010, member states retain key authorities such as defining volumes of migrants admitted, operating bilateral recruitment agreements, or specifying entry conditions (Carrera, Atger et al. 2011). Some member states, often the UK, opt out of common regulation altogether. Comparative statistics moreover indicate that specific uses of foreign labour admissions in national contexts continue to produce variable labour geographies

with regard to the size, professional profile, and origin of the migrant workforce, but also in terms of the rights they obtain in the host country (Huddleston and Niessen 2011; OECD 2011).

Migration management presents itself, at first glance, as a widely shared policy response to tensions between perceived economic recruitment demands and conflicting socio-political and protectionist agendas across the EU. Yet, we equally find a range of different motives for migration in different national contexts, specific relationships between sending and host countries or regions, variable transnational networks and so on (Castles and Miller 2009). The range of different policy tools used in specific countries, empirically diverging labour geographies, and member states' reluctance to harmonise admissions across the EU indicate persisting policy differences. This co-existence of commonalities and differences in contemporary European labour migration management represents the analytical puzzle of this thesis.

1.2 State-of-the-art: Placing the Thesis in an Emerging Research Field

Taking the empirical terrain of migration management as an analytical starting point, this thesis aims to understand and explain similarities and differences in EU countries' respective policies. This research adds to a growing but still rather young academic field, contributing a specific disciplinary perspective and empirical analysis which will be briefly delineated as follows.

Historical accounts of migration flows in a European context ascribe an important role to the guest-worker recruitment schemes after the Second World War (Castles and Miller 2009), but it is only with the revival of active labour admission from third countries into EU member states since the late 1990s that scholars have started to analyse labour migration as a distinct policy area. Coming from a political science and institutionalist political economy tradition, scholars have focused on the role of political parties, trade unions, employers and non-state actors in designing and implementing nationally variable labour recruitment policies (Cerna 2009; Devitt 2011; Menz 2009, 2010a). These accounts have helped shedding light on specific decision-making processes and highly political power struggles between actors involved in labour migration policy-making, and analyse commonalities and differences in the underpinning political economies. Especially Menz (2009) goes beyond traditional political science in pinpointing a contemporary political economy of labour migration in close interaction with the post-Fordist economic production regime and acknowledging policy interactions between the EU and member states in comparative perspective. Yet, with their research focus not covering labour migration policy in its legal substance, political science and institutionalist political economy accounts often lack in-depth

understanding of commonalities and variations in the underpinning norms vested in and inflicted through policies.

By contrast, critical legal analysts have amply enlightened the normative foundations of labour migration policies from the point of view of shifting legal principles and implications for migrants' rights on the EU level (Baldaccini, Guild et al. 2007; Guild 2005; Ryan 2007). Doing so, however, they often disregard the role of national public policy in the selection, creation and codification of these norms, and hence tend to overlook national variations. They equally overlook the structural conditions shaped by the political economy in which labour migration policies are embedded. Lastly, cross-disciplinary work by economists and sociologists has started to explain how economic and public policy conditions in various sectors within advanced capitalist economies co-shape the need for foreign workforce and determine migrant workers' positions in host economies (Ruhs and Anderson 2010b). This work helpfully illuminates the empirical realities of a shared post-Fordist political economy in which European labour migration occurs today. However, it tends to treat public policy as a mere context for foreign labour needs without seeking to unpick policies as normatively underpinned and strategic attempts in governing labour inflows, structuring and even reshaping the political economy surrounding it. As they concentrate on the UK only, Ruhs and Anderson can also not provide any comparative insight.

From this brief state-of-the-art in a nascent research field, it seems, a thorough comparative comprehension of similarities and differences in the statutory regulation of foreign labour admissions that covers its political, legal-normative, and political economy dimension is so far lacking. In order to offer such an integrated account of labour migration policy, this thesis is situated at the intersection of legal studies, political economy and political sociology. I conduct a *de jure* comparative analysis of labour migration management to scrutinise the legal norms that underpin policies in that area (legal perspective); I analyse labour recruitment legislation as part of a wider *political economy* in order to contextualise legal norms and explain their emergence and comparative character in relation to that context (political economy perspective); and I aim to pinpoint the *implications* of statutory regulation of labour migration *for migrant workers' statuses and rights* in the host economy and society (political sociology perspective). I overarch this interdisciplinary comparative analysis of labour migration management with a *critical perspective*, seeking to unpick and understand the normative choices involved in labour migration management and the effects of these choices on the way in which migrant workers are governed in Europe.

1.3 Research Aims and Scope of the Study

This thesis compares contemporary *de jure* labour migration management in the EU and asks how similarities and differences between countries can be explained. It adds an in-depth understanding and comparative explanation of the substantial normative references vested in labour migration management. Adopting the above-described interdisciplinary perspective, I aim to map the operational legal infrastructure of migration management, unpick its normative underpinnings, explain similarities and differences across countries in the context of a wider European political economy, and pinpoint the consequences of specific labour admission regimes in terms of migrants' rights. I hence focus not on shifts within policy over time (diachronic analysis) but aim to capture and analyse the current legislative terrain across three cases. By understanding and explaining labour migration management in three big European economies and labour-importing countries² – Germany, France and the United Kingdom – the thesis also aims to account for comparative similarities and differences and offer more general reflections on trajectories of labour admission policies in the EU. The *de jure perspective* excludes both the *ex-ante* negotiation of respective legislation (the political science approaches cited above amply offer insight in that regard) and the *de facto* implementation of regulation from the scope of this study.

In its original meaning, migration “simply described people moving, as fish, birds and animals do, under forces of nature, often following their flocks in search of pasture” (Jordan and Düvell 2003: 5). However, in the geopolitical understanding of the OECD, the EU, and member states, migration concerns cross-national movements of some permanence. An individual has to remain in a host country of which they are not a national for at least a year to be considered a migrant, which excludes internal migrations, but also short business and tourist visits for instance (ibid). My research specifically covers the regulation of *formal labour migration* from *third countries*. This focus, firstly, concentrates on the regulation of formal movements. This does not deny the role of irregular labour flows in EU host countries (Papadopoulos 2011); it rather comprehends them as an effect of some TCN workers' exclusion from legal entry channels to the labour market (chapter 2 will conceptualise law as classificatory tool). More specifically, the here developed concept of border-drawing emphasises the role of legislation in legalising some flows while illegalising others. It is by means of a contextualised policy analysis – taking seriously the empirical labour market realities, including informal practices, as an analytical backdrop in each case – that the distinction between legal and illegal migrant workers will be problematised. Chapter 5 will offer

² The methodological choice of individual countries and the EU as a policy-making area is justified in chapter 4.

this interpretive anchor for assessing the meaning of formal admission regimes in the empirical context of migrants' informal work and residence.

Secondly, the analysis excludes non-work movements across national territories such as those of students, family members, asylum seekers, refugees, tourists, investors, or expatriates. These categories of migrant flows are legal ideal types and dominate distinctions in official statistics. They are often entangled in practice, as asylum seekers and family members would also seek to enter the labour market of a host country for example, and can indeed switch legal statuses under certain conditions. Focusing on the category of 'labour' inflows I seek to narrow down the analytical scope of this research to a scrutiny of the legislation targeted at migrants as incoming workforce. This policy analysis focuses not on migrant workers and their experiences as subjects moving between legal categories per se; but on the codification of legal labour market access for migrants who have previously not had this access.

Thirdly, the thesis' analysis of border-drawing takes the perspective of third-country national³ labour admissions. All relevant legislation and most policy analyses in the field distinguish between EU-internal labour mobility and non-EU labour migration: whilst the former is governed supranationally under the umbrella of EU free movement and EU citizenship, the latter is mostly subject to national regulation which details admission and selection of migrant workers. As EU-nationals are subject to EU free movement rights⁴, the usual foreign labour admission procedures which this research analyses in-depth do not apply to them. My comparative interest in specifically *national* regulation makes non-EU labour admissions a particularly promising object of analysis. However, even though the rights regimes covering EU-nationals are not at the core of the analysis, empirical interactions between EU labour mobility and non-EU labour migration on actual labour markets mean that a contextualised policy analysis cannot ignore the wider context in which non-EU admissions operate. The subsequent analysis indeed exposes that free movement regulation serves as an essential structuring context of TCN labour admission and constitutes a key component in the explanation of comparative findings.

The thesis' main research question is: *How can similarities and differences of labour migration management be explained in comparative perspective?* I develop three interrelated sub-questions, based on a conceptualisation of labour migration policy as border-drawing with a

³ The term *third-country national* (TCN) defines all nationals of non-EU countries and distinguishes them from EU-nationals on the move within the Union.

⁴ Even where free movement had been curtailed in transitional work restrictions as after the 2004 and 2007 EU enlargements, EU-nationals are treated under a different regulation regime than TCN workers.

methodological focus on policy meanings (chapter 2), and the empirical-analytical substantiation of this concept in terms of multiple border-drawing dimensions and sites (chapter 3):

- R1: How do labour admission regimes de jure classify migrant workers?
- R2: Which meanings are vested in these legal classifications?
- R3: What roles do the economic, social and politico-legal dimensions and sites of border-drawing play in a classification regime?

By responding to these questions subsequently in the main analytical sections 6-8, an answer to the main comparative research question is developed.

1.4 Structured Argument and Contribution

The thesis contains two main parts which gradually build up the argument: part one develops the conceptual and analytical framework (chapters 2-4) and part two presents and discusses empirical findings (chapters 5-9).

Chapter 2 positions the thesis against accounts that perceive migration to be mainly a problem of effective territorial border control. I conceptualise migration policy as *statutory border-drawing* which imposes legal classifications of migrant workers. Drawing on Bourdieu's concepts of classification and symbolic power I argue that the state retains a powerful role in defining legal and illegal statuses and associated rights. A joint reading of interpretive policy analysis, critical governance studies and cultural political economy sharpens the analytical focus on the *policy meanings* which underpin classification principles, the state's strategic role in the *selective arrangement* of these principles, the structural embeddedness of border-drawing, but also its ability to re-constitute existing normative frameworks.

To populate the border-drawing concept for a comparative analysis, chapter 3 specifies three empirical *border-drawing dimensions* – economic, social and politico-legal – based on a review of comparative migration policy literatures. Each dimension is associated with a specific *border-drawing site* in the empirical field, thus specifying entry points for the comparative analysis on the sites of capitalist coordination systems, welfare states, and citizenship regimes. I develop regime-theoretical presumptions about the potential logics and normative frameworks that underpin labour migrant classifications at each individual border-drawing site in different regime types, hence forming analytical benchmarks for empirical cases. While comparative (labour) migration studies usually draw on only one type of regime theory, I aim to account for the *multidimensionality* of border-drawing processes in labour migration policies. I do so by

scrutinising the *interactions* between border-drawing dimensions and sites and establishing their relative weight in classification regimes.

Paying tribute to the conceptual emphasis on policy meanings and their selective arrangement in governance, chapter 4 designs the research as a constructivist-interpretivist study informed by an interpretive analytical approach. It provides a contextualised small-n comparison aiming to understand cases in-depth. I design a comparative method that uses idealtypical presumptions about border-drawing sites as theoretical benchmarks against which to contrast empirical cases. The study concentrates on the EU as contextual setting, incorporating its regulatory framework as part of each case into the analysis. Germany, France, and the UK are selected on the basis of their idealtypical cross-pairing in terms of border-drawing sites, thus enabling a wide coverage of potential normative frameworks of border-drawing across its economic, social and politico-legal dimension despite the thesis' limited scope of only three cases. Legal documents and interviews with policy-making elites provide access to data on legal classifications and their meanings and were analysed with interpretive methods.

Chapter 5 locates each case in regime literatures, draws out main characteristics of the individual labour geographies into which migrant workers are admitted, and briefly summarises the features of each country's recent reactivation of labour recruitment. This profiling pinpoints the variable normative reference frameworks and labour geographies at stake, thereby anchoring the interpretive analysis of comparative labour migration management in these country-specific contexts. Chapter 6 presents findings of the document analysis, establishing main classification principles in each country as well as in comparative perspective, and therewith answering R1. I find a high significance of classifying migrants by skill level and labour scarcity across all cases. This coexists with a miscellaneous prevalence of selection by origin, protectionist policy tools regarding the lower-skilled job market, selection by domestic qualifications, social cohesion, and the operation of annual caps.

Drawing on interview data, chapters 7 and 8 analyse the meanings vested in the found legal classifications (answering R2 and R3). Chapter 7 concentrates on similar legal classifications first, and exposes mutual normative reference systems which underpin classification by skill level and labour scarcity. These are predominantly reflecting a cross-nationally shared economic dimension of border-drawing and can be condensed into three economic imaginaries of labour migration. More precisely, I find that imaginaries of high-skilled global labour competitiveness, skilled national labour shortages, and EU lower skilled labour self-sufficiency structure admissions of migrant workers in similar ways across cases. Scrutinising differences, secondly, chapter 8 exposes nationally distinct interpretations and uses of

classifications, finding that application and meanings of selection by origin, domestic qualifications or social cohesion assumptions vary significantly across cases, with specific key themes forming normative reference points for legislation. These themes contextualise economic imaginaries with reference to the social and politico-legal dimensions of border-drawing in nationally distinct ways. In Germany, I find a mutual reinforcement of perceived economic demands and Bismarckian social integration logics, which coincide with politico-legal definitions of belonging in Germany's Euro-centred geopolitics. In France, we witness a highly politicised attempt of detachment from inclusive citizenship and a post-colonial labour geography by enforced economic border-drawing. In Britain, economic openness to labour migration is officially muted with social cohesion concerns, electoral politics, and tough migration control, but continues to matter beneath the surface as toleration of a large informal workforce. These findings sustain the argument that context features, such as a country's specific labour geography, become part of the specific contextualisation of shared economic border-drawing in comparative labour migration management.

Overall, I find variable selective arrangements of a) common normative frameworks of capitalist coordination with b) nationally-distinct social and politico-legal normative reference points in relation to welfare and citizenship, but also the underpinning labour geographies. These findings lead to the thesis' key conclusion: the *distinct socio-political contextualisation* of a *common cultural political economy of labour migration* in persistently variable labour geographies and host societies explains similarities and differences, and their very co-existence, in European labour migration management as exemplified in the German, French and British case.

To provide a conclusion and discussion, Chapter 9 evaluates empirical, theoretical and policy implications of these findings and reflects on limitations. It considers the thesis' insight into empirical border-drawing fields and assesses the usefulness of regime literatures in accounting for labour migration management comparatively; it appraises scope and limits of border-drawing as analytical concept; and it lastly considers border-drawing effects in terms of migrants' rights, an EU-wide labour migration approach, and the implicit governance of other targets by labour migration management. This discussion thus substantiates the thesis' contributions:

- empirically: a *comparative multidimensional policy analysis*, supported by a method of idealtypical contrasting, which captures the economic, social and politico-legal norms entailed in labour migration policies and enables a critical reappraisal of regime-theoretical comparative policy accounts;
- theoretically: an *innovative conceptual perspective* on migration policy as border-drawing which exposes often overlooked semiotic structuration processes in policy-making,

highlights the strategic contextualisation of policies in a wider setting, and empirically substantiates labour migration management as a distinctly political ordering process;

- policy-related: comparative insight in the *policy implications* of labour migration management in terms of a common European labour geography, migrants' differential access to rights, and the impact on governance subjects other than migrant workers.

2 Labour Migration Policy as Statutory Border-Drawing

The aim of this thesis is to understand and explain how states ‘manage’ labour migration in comparative perspective. As the ‘age of migration’ seemingly calls into doubt some key organising principles of statehood, such as border integrity (Castles and Miller 2009), this research firstly has to carve out the parameters of state activity conceptually. Which concept of state activity can we usefully apply to the study of migration management and how can entry points for empirical analysis be specified on that basis?

To offer this conceptual grounding this chapter considers the relationship between migration and the state. It critically reviews the migration control literature and positions the thesis against accounts that concentrate on explaining the control gap between restrictive admission policies and de facto migratory flows (section 1). While demonstrating the challenges that cross-border economic activities and the liberal constitution of democratic states pose to physical entry control, these perspectives simultaneously obstruct the view on non-physical forms of control. Section 2 offers an alternative conceptualisation of state activity vis-à-vis migration. A theoretical engagement with Baumanian order design and the Bourdieusian concepts of classification and symbolic power feeds into the thesis’ core concept of *border-drawing*. Border-drawing is defined as an instance of societal order-building in which states classify and allocate migrants into various positions of legality and illegality, insides and outsides *within* the host country. This re-conceptualisation of state activity in migration policy stresses the power of classifications, highlighting their inherent normative judgements about what is ‘good’ and ‘bad’ as well as the respective political ordering of relations in the social world. This political sorting exercise powerfully shapes migrants’ experienced social and economic realities. Border-drawing is further operationalised in terms of legal classifications with public law being the vehicle through which state legislators codify borders and their entailed normative judgements.

The aim of an empirical-analytical study does not stop at the description of border-drawing activities, but requires a specification of ontological and analytical implications⁵. The Bourdieu-inspired concept of border-drawing implies a strong ontological commitment to the interplay of semiosis and structures in policy-making that analytically a) focuses on the meanings vested in classifications and b) acknowledges both the structurally embedded and constitutive character of symbolic classifications. In section 3 therefore, I draw on scholars of interpretive policy analysis (IPA), the framing of governance as an analytical approach developed at the

⁵ Overviews (figures 2.1-2.3) take account of the gradually developed concept of border-drawing.

University of Bath, and cultural political economy (CPE) to develop three analytical specifications of the border-drawing concept: 1) Normative prescriptions and specific meanings underpin the choice of particular classification principles, thus issuing a vital role to *semiosis* in policy analysis. 2) The state's *strategic* role in classification processes can be conceptualised as *selective arrangement* of classification principles, their normative references, and statuses and rights for migrant workers in policy. 3) These selective arrangements are embedded in existing structures, but they equally entail strategic room for manoeuvre for the shaping and constitution of relationships. The border-drawing perspective specifies *classification principles* and their normative reference points as this thesis' objects of comparative analysis.

2.1 Loss of State Control? A Problematisation of Migration Policy Accounts

In order to offer a critical engagement with the migration control literature, this chapter firstly considers the philosophical relationship between state and migration. The establishment of fundamental tensions between the two concepts – one relying on territorial integrity of a demarcated population and public good provision and the other relying on movement across the same territorial borders – facilitates an informed reading of migration control accounts, which are preoccupied with the state's capacity to control migration through physical borders enforcement despite these tensions. The chapter positions the thesis against accounts that perceive migration policy as a struggle over effective border control and as such forms a platform for a subsequent alternative conceptualisation in sections 2.2 and 2.3.

2.1.1 Philosophical Grounding: States, Migration, Borders

In migration studies, entry and residence control is referred to as a, if not *the*, pivotal state activity (Joppke 1998b). State governments “want to be able to choose which people to admit, how many, for what purpose, and for how long. They do not want these decisions to be made by employers, other governments, or would-be migrants.” (Weiner 1995: 12) These claims reflect a deeper philosophical dilemma underpinning the perception of state and migration that needs addressing before we engage with the migration control literature. This is no once-and-for-all definition of key concepts, but represents an initial philosophical problematisation that serves as a basis for ongoing re-definitions of state activity in migration throughout the thesis (on the value of re-specification of definitions throughout analysis see Jessop 2008).

Let us commence with the state: the intrinsic link between sovereignty and territoriality in the Weberian definition of state emphasises the physical borders of the terrain in which it legitimately rules: ‘within a given territory’ (Weber 1994). Moreover, the close intersection of territory principle and nation principle in the nation-state (*Staatsgebiet* und *Staatsvolk* in Weber’s terms) indicates that any physical demarcation of state equally implies and requires a demarcation of the population over which and for which a state can legitimately rule. Passports have been crucial in the distinction of citizens and non-citizens and represent the state’s attempt to “monopolize the capacity to authorise the movement of persons” (Torpey 2000: 6). State activities such as extraction for military, taxation, law enforcement etc. rely on the monopoly over the “legitimate means of movement” (ibid: 7). Modern state theorists since Weber embraced the idea of a “given population” on which state apparatuses “define and enforce collectively-binding decisions” even if they depart from a clear territoriality principle and acknowledge multi-level forms of spatial organisation (Jessop 2008: 9). Without some sense of territoriality and/or population the concept of state dissolves to a meaningless term without any reference point for its very purpose (Weber’s *Staatszweck* or *Staatsaufgabe*). Who do states act on with their welfare policy, who has to pay taxes, who can vote, whose security and physical safety do they protect? *Demarcation* is essential to these questions; the *border* concept is key to delimit a) the territory on which state’s rules apply and b) the number of individuals that acquire rights and duties with regard to a state’s public policy. Borders, eventually, are key ingredients of statehood and their demarcation is both a key state activity and prerequisite for other state activities.

Human migration – usually defined as a cross state border movement of some temporal permanence (Castles and Miller 2009) – by default challenges the principle of demarcated territory and population. Fuelled by globalisation “movement of all kinds across organisational borders” has become a defining feature of global economic integration (Jordan and Düvell 2003: 3) and causes conceptual tensions for the notion of statehood. Migratory movements across borders represent an issue for policy-making *because* states by default rely on a definition and enactment of borders to territory and population. Migration also challenges the conventional definition of a ‘given population’ as nation: “It seems likely that increasing ethnic diversity will contribute to changes in central political institutions, such as citizenship, and may affect the very nature of the nation-state” (Castles and Miller 2009: 48).

The state-migration-paradox has important implications for policy analysis. Without a sense of sovereign states which define and justify their legitimate rule by means of geographical sense-making and subject-demarcations expressed in borders, migratory movements could not be captured analytically. This does of course not mean to deny that social sciences can study

movements across natural geographical borders such as mountain ranges, lakes, deserts or oceans. Rather, I want to emphasise that the concern for migration in much of the academic and policy debate today focuses on the conventional concept of the nation-state and its ability to control its borders – or by extension regions within it or supra-national organisations such as the EU (it is impossible to list all accounts, but a selection of relevant work might include Brochmann 1999; Castles 1995; Freeman 1998; Hammar 1990; Joppke 1998a; Schierup, Hansen et al. 2006). Most of these discussions start from the assumption that states can and shall somehow ‘control’ their borders. This focus is not accidental but represents an expression of a deep philosophical dilemma between one of the most important organising principles of human society – the state – and the eternal human practice of moving across whatever constructed organisational boundaries humanity has created. We can simply not – or rarely – think human migration outside the category of the state in policy sciences as long as states, or state-like entities such as the EU, remain key providers of public goods and public policy.

2.1.2 A Matter of Effective Control? Migration and Permeable State Borders

Starting from the notion of inherent tension between state sovereignty and migration, much scholarly work has scrutinised the extent to which states can *control* migratory movements. It is through the concept of *borders* that these accounts scrutinise this relationship, usually with the conclusion that physical state borders can no longer be sustained.

Weiner (1995) has been one of the first to comprehensively address the ‘global migration crisis’ states allegedly encounter in the contemporary world. Supported with empirical data, he argues that the organising principles and functions of modern states conflict with the phenomenon of migration. In terms of implementation capacity as one aspect of sovereignty, for instance, debates about the ‘unintended consequences’ of guest-worker programmes and active labour recruitment policies highlight that state control targets have not or not entirely been met in the past (Castles 1986; Cornelius and Tsuda 2004). More recently, mass regularisations of irregular migrants (either in terms of work or residence, often both) in countries such as Italy, Spain or Greece have demonstrated the limits of regulated entry mechanisms (Peixoto 2002; Reyneri 1998). The migration crisis is reported as state crisis and believed to highlight the limited ability of nation states to effectively control borders and hence migration. Central to the migration control literature has been the ‘gap hypothesis’ (Cornelius, Martin et al. 2004) which claims a general detachment between policy goals of restriction, regulation and control on the one hand and rather liberal implementation practices and ‘unintended’ or unwanted policy outcomes on the

other. This thought needs further unpicking. Let us hence review main strands of migration control literature which conceptualise the loss of state control over borders and migratory movements in different ways.

Economic labour mobility theory, firstly, treats labour migration as a direct powerful link between international trade and the dynamics of global movements of labour (Ghosh 2000). Neo-classic economic theory perceives global labour markets as markets determined by demand and supply. Wages are determined by the price of worldwide available and mobile labour (cf Verwiebe 2004). Labour migration then mainly corresponds to macroeconomic 'push- and pull-factors' without much of a role for the state: strong labour demand and high wages in industrialised countries pull migrants towards those countries, whereas bad conditions of work and life and lower salaries or unemployment push them away from their countries of origin (see more detailed account of this approach in Castles and Miller 2009). The assumption that labour migration can be captured mainly in terms of economic allocation principles is supported in rational choice political economy. It presumes that migration policy in liberal democracies is always slightly expansive – irrespective of tight control targets – due to the concrete benefits employers⁶, most importantly, receive from labour migration (Freeman 1995; Freeman and Kessler 2008). Control 'gaps' and highly permeable borders emerge from the economic benefits of these very gaps for specific economic agents.

Some political economists and sociologists follow economic labour mobility theory's claim that globalisation and internationalisation processes lead to an *end of state control* in migration policy mainly due to a rescaling of policy-making to higher levels. Globalisation's free trade regime contributed to "a new geography of power" (Sassen 1996: 5) with the establishment of transnational economic and trade institutions, regimes and governance systems. For Sassen this has allegedly led to a rescaling of migration policy-making to a global level, a denationalisation of power and a reconfiguration of states (also see Jessop 2002). Rational choice political economy considers national regulation inefficient to confront global challenges of labour migration and a globalising economy; they eventually call for a shift of the migration policy locus to supra- and international organisations such as the WTO and EU (Straubhaar 2000: 124). Post-Marxist analyses have criticised that the state's rescaling and de-bordering in the facilitation of global capital (Cohen 1987, 2006; Jordan and Düvell 2003) has not so far gone hand in hand with a global regime of citizenship and migrants rights which could cushion global social inequalities caused by economic globalisation.

⁶ The authors note that human rights groups share employers' and business lobbies' interest in and concrete benefit from liberal migration policies.

A neo-institutionalist strand of literature, discusses the *self-limitation of sovereignty* in migration policy. It argues that there are vital institutional constraints to effective border control based on liberal democratic constitutions ('liberal constraint' thesis) (Hollifield 2004a; Joppke 1998b, 2005a; Joppke and Morawska 2003). States risk losing their democratic legitimacy when excluding migrants from the liberal rights regime that otherwise applies on their territory. Courts play an important role as enforcers of constituted rights in that respect as Joppke (1998c, 1998b) has shown in an analysis of the extension of long-term resident rights, rights to asylum, family reunion, and access to citizenship.

Governments, some argue, have not remained silent towards the described losses of border control in economic globalisation and rescaling processes. Bob Jessop's (2008) 'strategic-relational approach' of state theory defines states not as fixed entities that gain or lose power, but as strategic relations which are constantly restructured and reinvented with the changing socio-economic relationships of which it is a part. In this context, the thesis of strategic 'externalisation' of control (Boswell 2003; Boswell 2008; Lavenex 2005; Lavenex and Ucarer 2002) has gained huge impact within the economic setting of the EU. The Schengen co-operation framework is often portrayed as a prime example of supranational 'pooling' of sovereignty to sustain authority and control in an economically integrating Europe. These authors herald a *dispersal of control* perspective, arguing that rule-making and implementation in migration policy are partly dispersed to levels and agencies, which are believed to be more capable of achieving targets under changing conditions of economic production and trade. Dispersal also takes the form of outsourcing: private actors such as air carrier companies are, for instance, increasingly charged with the detention and expulsion of irregular residents (Menz 2010b). It has been argued that these dispersal strategies have not implied losses of control over borders but indeed allowed for a sophistication of control by other means (Brochmann 1999; Freeman 1998; Neal 2009). Dispersal can hence be a state strategy to address some of the constraints mentioned earlier.

In the European empirical context of this research, denationalisation and internationalisation of policy-making points to the crucial role of the EU as an extended policy-making arena. Indeed, questions of integration and rights of migrant residence as well as asylum have been a matter of shared competency between the Commission and the Council since the Amsterdam Treaty came into force in 1999. With the Lisbon Treaty, signed in 2010, guidelines for legal admissions and labour migration have also become subject to the community method of EU decision-making, with qualified majority voting reigning in the Council and the European Parliament acting as co-legislator (Carrera, Atger et al. 2011). Scholars diagnosed a partial and gradual Europeanisation of policy-making or shift to multi-level governance in that respect (Faist

and Ette 2007; Menz 2009; Zincone and Caponio 2006). Certainly, member states have resisted full European harmonisation of migrant admission and integration, with countries such as the UK or Denmark opting out of most Directives and EU decision-making explicitly excluding the definition of volumes and specific criteria for admitting migrants so far. Yet, at the same time, some aspects of migration and integration policy, such as the rights of long-term residents or family members of migrants, have come to determine national policies from the Commission's policy input (CEU 2003a, 2003b). Guiraudon (2000) has demonstrated that this is no mere 'loss' of control over migration, but member states use the EU level as a venue to achieve restrictive policy targets by simply bypassing domestic liberal constraints. EU-wide asylum restrictions which countries such as Germany used to toughen their more liberal and constitutionally anchored approaches serve as an empirical example here. 'Effective' migration control, again, is discussed as a matter of level of policy analysis. While internalising the notion of limited physical border control and border permeability in light of economic globalisation and 'migration pressures', the dispersal perspective highlights that states have developed strategies to react to these pressures.

2.1.3 Beyond Physical Border Control: Limits of Migration Control Perspectives

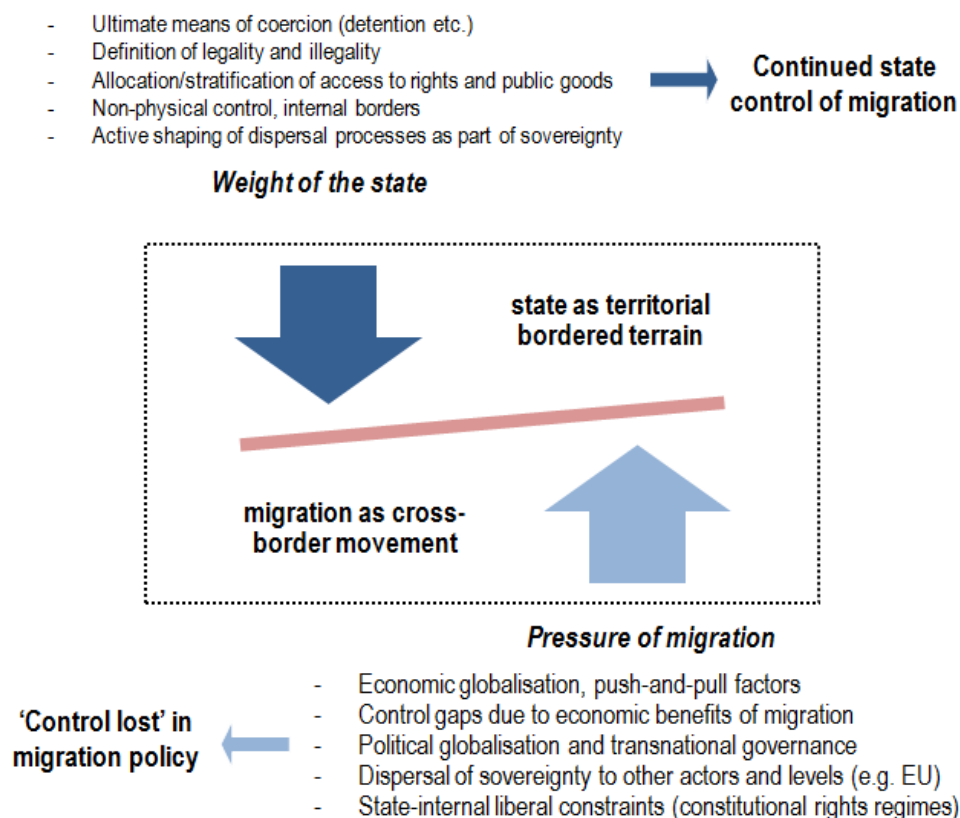
The joint reading of migration control perspectives offers a good account of the limits to state activity regarding migration. They are founded in constitutional liberal constraints, powerful economic interests, and global economic re-scaling processes. One of the strengths of these perspectives is their sensitivity towards the international and global economic context as a driving force behind migration processes today. States, it seems from economic labour mobility theory, have reached the point where attempts to manage migration and control physical borders have become untenable.

However, I want to raise several objections to the scenario of control lost and permeable borders (figure 2.1 for overview of this intellectual debate). Firstly, migration control accounts pay surprisingly little attention to the realms where state authority is very visible. In her analysis of state activity in deportation policies Antje Ellermann (2009: 6) finds it "surprising [...] that the vast literature on state capacity has virtually ignored the study of coercive social regulation". Deportation and expulsion policies are a powerful realm of state power in the migration field, and the dispersal perspective outlined earlier in fact incorporates this claim.

Secondly, I argue that states can and do attempt to channel flows into paths congruent with their policy objectives even where they cannot control or 'keep out' flows physically. They define and apply regimes of rights and duties, and decide who will be entitled to which rights,

affected by which duties, benefit from public policy provision, and under which conditions (Loughlin 2003). The role of states to define legitimate claimants, allocate differential rights and statuses to individuals, and determine the conditions for access to public goods is often underestimated in the migration control debate. I argue that this role is most clearly embodied in states' capacity to distinguish between 'legal' and 'illegal' flows in legislation and to attach differential policy responses and rights regimes to this distinction. It hence matters not in itself that irregular migration *does* occur despite restrictive policy regimes; what is more important analytically from a state control perspective is that the very absence of an economically liberal policy regime for admission leads to a channelling of migrant workers into informal parts of the labour market (Ambrosini 2001; Freeman 1998; Reyneri 2004) and condemns them to a status of 'illegality' (Chavez 2007).

Figure 2.1: Scenarios of Migration Control in the State-Migration-Paradox



Source: author's compilation and design

State power to act in migration admissions does not stop at a dichotomisation of legal and illegal positions. Legislation rather paints many different shades of legality – with a wide

range of different permits, entry criteria and rights of residence and work. Cutting-edge work by COMPAS scholars in Oxford, for example, has demonstrated the multiplicity and volatility of statuses between legal and 'illegal' and the role of policy-making in that context (Ruhs and Anderson 2010a). This work shifts the analytical perspective away from limits to control to expose the various ways in which state legislation allocates differential rights and statuses to migrants and thereby shapes the formal context for migrant workers' lived experiences. This mainly concerns the authority to define who is legal, what is 'illegal' and what rights and statuses various legal positions imply. This internal stratification is at the heart of the thesis' research interest.

The view on demarcations of legal/illegal positions directly leads to a third criticism: most migration control perspectives display an analytical bias towards physical border controls. The literal 'keeping out' of unwanted migrants serves as measurement for control effectiveness. This underestimates the implications of the definition of 'illegality', but equally highly differential categories of 'legality', for migrants' experiences in the host country. Most importantly, the uni-dimensional take on *territorial* borders and *physical* control overlooks that the allocation of differential legal statuses, but also their denial, has far-reaching consequences for migrants' lives. The legal/illegal status allocations largely monopolise the control over access to public goods provision such as welfare entitlements, housing, health care, schooling for children in some instances, and even formal private employment. Rather than limiting their realm of migration control to the enforcement of physical territorial borders, states construct migration borders through a wider set of policies that determine labour market access, welfare entitlements, and other sets of rights *within* the territory of the state. In the light of these considerations the perspective on predominantly physical border enforcement does not augment much meaning; we need a wider border conceptualisation that takes account of the consequential allocation mechanisms migrants face as to distinctions between legality and illegality in host countries.

A whole range of authors have been preoccupied with the multiplicity and consequences of *internal* borders: Hammar's (1990) account of several subsequent 'entry gates' for migrants from first physical entry to full formal citizenship; Morris' (2002) account of 'civic stratification' of rights, Peer's (2001) notion of a 'sliding scale' of rights; Crowley's (2001) work on differentiated 'internal' borders to EU free movement; but also my own and Emma Carmel's (2009) reflections on a 'bricolage' of migrant statuses and rights regimes in the EU. These accounts all insist that geographical borders do not tell the whole story of state activity vis-à-vis migration. Empirical research has shown that borders to labour markets and welfare states essentially fuel inclusion/exclusion mechanisms for migrants, and that state-level regulation of these fields persistently matters despite global convergence pressures for labour market deregulation and

welfare state retrenchment (Banting 2000; Bommers and Geddes 2000c; Carmel, Cerami et al. 2011; Koopmans 2010; Ryner 2000; Sainsbury 2006; Schierup, Hansen et al. 2006). These accounts also highlight the determinedly social aspects of economic migration, hence supporting the Polanyian (2001 [1944]) assumption of the social embeddedness and necessary regulation of markets, and exposing the limitations of economic push-and-pull claims regarding migration. We cannot capture the multidimensionality of borders and their allocation effects within host countries with an inside-outside dichotomy.

A last point of critical engagement evolves directly from the re-claiming of control for the state. The broad brush migration control picture highlights common economic pressures and by default overlooks that *what* becomes untenable under economic globalisation and liberal constraints, and *what* is then acted upon with policy, varies across states according to their different economic and social constitution. A recent volume has engaged with the uneven impact of post-Fordism in European economies and demonstrates how admission policies consequentially vary between countries, but also between sectors of the economy (Menz and Cavedes 2010b). Comparative work underlining the uneven social integration policies and policy effects on migrants has already been alluded to before (Carmel, Cerami et al. 2011; Schierup, Hansen et al. 2006). It makes a significant difference for individual migrants to be legal or 'illegal' certainly, but we also have to assert that it makes a difference *where* they are legal or 'illegal'. It matters into which segments and sectors of the labour market workers are admitted, what kind of labour rights they are entitled to, what kind of welfare the host country offers to regular and indeed informal workers, whether the host country applies regularisations, whether it offers liberal naturalisation options, how it deals with 'irregulars' and so on (for an index of the significant differences in integration policies across European countries see Huddleston and Niessen 2011).

Even in a context of re-scaling of policy-making to the EU level, the Council remains the dominant actor for labour admission issues. Member states' willingness to maintain control over the issue of legal migration and labour recruitment has set clear limits on a rescaling of competencies (Baldaccini and Toner 2007; Geddes 2003b). The inertia in adapting Directives on legal migration for any group of workers except for the very high-skilled (EU Blue Card) following a now dated policy plan (CEC 2005), frequent opt-outs from EU-Directives by countries such as the UK, or the Danish attempt to re-introduce border controls in the Schengen area in 2011, highlight the powerful role of member states in migration policies. Moreover, the notion of venue-shopping (Guiraudon 2000) implies that shifting processes to the EU level are no uni-directional sovereignty losses for member states but can entail strategic state decisions to exploit opportune venues to accomplish policy objectives (a similar point is made by Menz 2005). Even EU-internal

free movement of workers has been dealt with differently by member states, and countries such as Austria, Germany or France have introduced transitional limitations to work inflows from Eastern European countries. Even in a multi-level governance setting, labour migration from third countries – but sometimes even within the EU – is still shaped by national regulation.

The analysis hence needs to be alert to the national context and variation in legal/illegal definitions and their policy underpinnings. This claim directly feeds into the comparative research interest of this thesis. In order to account for the internationalisation of migration policy regimes the methodological answer then is not to turn away from the nation state as an object of analysis. Rather, we have to analyse supranational policy regimes such as EU free movement and long-term residence, as well as international trajectories of economic globalisation as *presences* which are incorporated and negotiated *within* national policy-making settings.

2.2 Reconceptualising State Activity: Border-Drawing and Classification

The previous section argued that the concern with limits of control and physical borders in the migration control literature by default neglects instances of unrelenting state control in the demarcation of legal and illegal positions within the host country. The focus on physical border control, the dichotomous view on physical insiders and outsiders, and the disregard of the allocation effects of legal/illegal migrant categorisations obstruct the view on the reach and range of state activity in labour migration. By defining who is admitted as legal worker, under which conditions, and with what sets of rights, and by introducing various nuances of statuses and admission criteria in this context, states retain considerable influence over migration. While the tension between the nation-state and migration does not vanish, I argue that states can and do shape flows according to the objectives vested in policies. Ultimately, not the question of control per se, but the question *what kind of control* obtains central prominence in this research. This section offers an alternative conceptualisation to account for state activity in migration policy thus carving out the thesis' analytical focus, not on physical border enforcement as in migration control accounts, but on *statutory border-drawing*.

Instead of perceiving territorial integrity as an indicator of effective borders to migration this section proposes a Bourdieusian reading that focuses on the state's symbolic power to classify and categorise individuals, and eventually plot them into different statuses of legality and illegality. The chapter addresses the points of criticism raised against migration control accounts and constructively weaves them into an alternative conceptualisation of migration policy. The emerging concept of *border-drawing* is defined as an instance of societal order-building in which

states classify and allocate migrants into various positions of legality and illegality within the host country. The border-drawing concept is further operationalised in terms of the classifications states codify in and impose through public law, thus feeding into an empirical analysis interested in *de jure* admission regimes and their demarcation of access to various rights for migrant workers in the host country.

2.2.1 Conceptualising Border-drawing: A Bourdieusian Classification Perspective

The conceptualisation of state activity proposed here draws on concepts of order-building by Zygmunt Bauman's (1998, 2000, 2004) and Pierre Bourdieu's (1989, 1991, 1998) work on the role of the state in classifying migrant workers, labelling them as legal or illegal, and defining what rights accompany various positions of legality. In an endorsement of this influential sociological work, I suggest that one of the main state activities in migration policy is the construction, reconstruction and maintenance of *order* by means of classification. Products of these classifications are *borders* which capture not only territorial demarcation lines, but also the social, economic and cultural allocation principles that categorise individuals and their status within a state's territory. *Border-drawing* then becomes the key activity of states in labour migration policy.

Order construction is a direct response to the complex and uncertain social world that the migration control literature has described in terms of economic globalisation, re-scaling of policy-making arenas, and perceived losses of state sovereignty by defining, redefining and enforcing multiple classifications. Jessop's (2008, 2009) concern with the complexity of the social world to be governed, for instance, leads him to suggest that complexity reduction and structuration are at the heart of state activity. Equally, for Bauman (2000, 2004) the delivery of *order* in and through state policy is necessary to provide a sensitive *design* of an otherwise incomprehensible and overly complex world. For him, the uncertain and complex era of 'liquid modernity' requires constant sense-making, and *order-designing* allows for that very complexity reduction.

More precisely, Bauman holds that "the nation state has claimed the right to preside over the distinction between order and chaos, law and lawlessness, citizens and homo sacer, belonging and exclusions, useful product and waste" (Bauman 2004: 33). It is the very function of order-building processes to produce inclusion and exclusion patterns, and to define 'redundancies' without which the inside⁷ would be impossible to perceive, demarcate, and

⁷ Discourse analysts in the tradition of Derrida, Foucault, Laclau and Mouffe have taken great pains to emphasise the inherence and necessity of *the other* in whatever is politically constructed as inside (Glynos and Howarth 2007; Howarth and Stavrakakis 2000).

sustain. Bauman's concept is not reducible to a physical notion of demarcation; his focus on inclusion and exclusion mechanisms opens the analytical view to demarcations between insiders and outsiders within states, as well as capturing the more traditional territorial borders the migration control literature concentrates on. I maintain that his concept of order-building nicely captures the essence of state activity in migration policy: governments and legislators try to design *order* – and thereby manage complexity – by drawing *borders* between insiders and outsiders across the social world they aim to govern.

But *how* exactly are borders drawn? Bauman refers to inclusion and exclusion but does not specify the mechanisms and processes by which others are defined. This is where Bourdieu's reflections on *classification* enlighten the concepts of order-building and border-drawing. Let me briefly specify Bourdieu's ontological and methodological claims before engaging with his work, as the two are intrinsically linked and strongly influence this thesis' research design. In a critical engagement with Marxism, Bourdieu rejects essentialism which in his view mistakenly reifies analytical concepts such as class on social reality and produces 'theory effects'. However, he equally departs from notions of radical contingency as relativist ontological and epistemological positions "cancel out social differences by reducing them to pure theoretical facts" (Bourdieu 1991). In an attempt to bridge the gap between structural determinism and relativism, Bourdieu perceives the 'real' as a "space of relations", later called 'social space', which is not completely structurally determined⁸ but constructed in powerful 'symbolic' struggles over classification. The French sociologist further departs from discursive contingency claims, however, when assuming that some properties of individuals – such as age, gender, race, educational attainment – are ontologically real and have structuring effects as to agents' position in the social space. However, the way in which they structure is not pre-determined forever but it depends on the powerful ascription of meaning to these properties in the classification struggles.

From a Bourdieusian perspective, semiosis and the power over meaning-making become central for further analysis of order construction processes in labour migration policy-making. It would expose the meanings vested in classifications of the social world, their essential role in order construction, their structural embeddedness, and acknowledge the asymmetric power relations involved in collectively-binding meaning-making processes. Section 2.3 will lay out in more detail an interpretive and critical analytical perspective which connects to the Bourdieusian ontology and synthesises it with cultural political economy, critical governance studies, and an interpretive policy analysis perspective.

⁸ Recent engagements with an ontology of space have highlighted its partly non-geographical, constructed, and highly political character (Howarth 1996, 2006; Massey 2005).

With the concept of *classification* Bourdieu's reflections in *Language and Symbolic Power* (1991) and *Social Space and Symbolic Power* (1989) focus on the mechanisms by which relations, differences and distances, between individuals and groups are constructed and reproduced through classification in language. I understand classifications as categorisations which allocate different roles, statuses, and rights to migrant workers. To draw on Cinderella's story again, classification of 'good' and 'bad' informs her judgement as to which lentils land in the pot and which in the crop. Classifications are core to border-drawing as they define where exactly the border runs; in their simplest form they entail the set of criteria on which basis a migrant is classified as legal or illegal. By default, classification processes – and hence border-drawing – entail normative visions of the world as they are underpinned by assumptions about the way in which migrants should be categorised and why. Bourdieu therefore perceives classifications as products of 'symbolic struggles' over the legitimate vision and division of the social world.

I identify two main advantages to the integration of a Bourdieusian classification approach in my conceptualisation of state activity in migration policy. His emphasis on the privileged role of the state in classification opens the required space for a redefinition of state activity as border-drawing. Secondly, his notion of classification as a semiotic, institutionally embedded, and materialist consequential structuration process offers a scrutiny of border-drawing beyond relativism and essentialism. In the first regard, Bourdieu uses the concept of *symbolic power* to highlight that not 'anything goes' in the construction of social relations through classificatory struggles, but that the state has a privileged role in these struggles. In this view, anyone can say anything linguistically but not anyone can impose any vision of the world sociologically (Bourdieu 1991: 74). This acknowledgement of asymmetric access to 'symbolic capital' (in addition to his concepts of economic, social and cultural capital) leads him to attribute a particularly powerful role to the state in classification processes:

"In the symbolic struggle for the production of common sense or, more precisely, for the monopoly over legitimate naming, agents put into action the symbolic capital that they have acquired in previous struggles and which may be juridically guaranteed." (Bourdieu 1989: 21)

In a Weberian tradition, he emphasises at several points in his work that the state is charged with a 'monopoly over legitimate symbolic violence'⁹ and that eventually its 'naming' is more consequential than that of other agents (Bourdieu 1989, 1991, 1998). Symbolic divisions can only become powerful if they "are recognised, that is misrecognised as arbitrary" (Bourdieu 1991:

⁹ The term violence stems from Weber and alludes to the state's authority to use force – such as police enforcement or military enforcement – as *ultimo ratio* when implementing its policies and legalisation.

170).¹⁰ The state's monopoly over symbolic 'violence' then offers a powerful source for such recognition. If legitimacy of classificatory claims and their underpinning criteria and normative references must be derived from recognition (and misrecognition as arbitrary), then the state's ability to classify and define legitimate welfare beneficiaries, criminals, pupils in compulsory schooling, state officials, or official dignitaries – and to equally exclude all others from the scope and consequences of these definitions – through democratically legitimised legislation is certainly one of the most triumphant instances of symbolic power in action. Speaking with Bourdieu again:

"One of the major powers of the state is to produce and impose categories of thought that we spontaneously apply to all things of the social world - including the state itself." *And further*: "It is in the realm of symbolic production that the grip of the state is felt most powerfully" (Bourdieu 1998: 35; 38).

In the second regard, Bourdieu gainfully addresses both the semiotic and materialist dimension of social classification. As Grenfell argues, Bourdieu acknowledges that the social space forms an 'uneven playing field', (Grenfell 2008) with linguistic classification attempts interacting with inequalities based on the varying properties of agents, and the asymmetric distribution of different kinds of capital. Linguistic visions and social divisions are deeply interwoven, they form part of the same classification ensemble: relations in the social space are "constructed on the basis of principles of differentiation or distribution constituted by the set of properties active in the social universe under consideration" (Bourdieu 1991). This integrated perception of discourse and structure allows him to acknowledge inequalities to be both part and result of a dynamic, yet always embedded, iterative structuration processes. It also highlights that linguistic categorisations *have to* relate to already existing institutional structures – perceived as products of previous struggles over classification – to derive credibility and legitimacy. Classification attempts such as internal border-drawing then cannot act in a vacuum but are historically and socially embedded, interacting with aspects of previous classifications and symbolic orders. Section 2.3 forges an analytical perspective that takes account of the simultaneous structural embeddedness and constitutive character of classification processes.

In summary, state activity in migration policy is understood here as an instance of societal order building achieved through border-drawing between multiple insides and outsides within their territory. This thesis stresses the role of the state in classifying migrant workers, labelling them as legal or illegal, allocating differential statuses to them in the social space, and defining which rights accompany various positions of legality. It is important to note that while

¹⁰ Interestingly, despite not being a post-structuralist, Bourdieu defines discourse here in not so very dissimilar terms from his later scholar Michel Foucault when he emphasises the power of classifications. This reminds us of internalisation of discourse and technologies of the self in Foucauldian terms.

these classifications can be contested and undermined in practice – as the migration control literature quite rightly indicates, the activity of classification itself has to be understood as very influential. It delimits the borders of what formally counts as ‘legal’ and what is defined as ‘illegal’ and therefore must be contested or undermined. Borders then are the products of a normatively underpinned classification process in which states design, reproduce and impose visions and divisions of the social world to demarcate various legitimate (and illegitimate) positions. This border concept shifts the analytical focus away from control as enforcement of physical borders and towards internal allocation mechanisms. Ultimately, it ascribes a persistently powerful role to states and state actors, in opposition to part of the migration control accounts reviewed earlier. In comparative exploration of labour migration border-drawing in different countries, my empirical work (chapters 6-8) will substantiate this claim and offer a basis for critical discussion (chapter 9).

2.2.2 Operationalising Border-drawing: Classifications in Public Law

How can we operationalise *border-drawing as classification* for the purpose of empirical analysis? The allusion to main policy tools and mechanisms in ‘labour migration management’ in the introduction has shown: states define and impose manifold distinctions of migrant workers, decide who is ‘illegal’, and define what sets of rights accompany various legal statuses. I suggest that it is in the realm of *public law* where these distinctions are powerfully laid out, and propose an operationalisation of border-drawing as classification in legislation (figure 2.2). This specification is important as it informs the units of analysis: the legislative infrastructures that govern labour migrants classification in each country, and the policy meanings vested in legislation. In other words, if we want to trace border-drawing, we have to analyse the classifications and rights regimes created in legislation.

Where states are concerned law-making and order-design are closely related. Laws and penalty codes order social relations by defining rights and duties on the state territory, and by specifying what happens if rights are abused or violated. From a Bourdieusian viewpoint legal classifications are powerful because they represent a symbolic order backed up by the state’s monopoly of using physical force: unlike other agents in classification processes, the state can legitimately enforce classifications drawn in public law: it is “a necessary aspect of state-law that it is coercively enforced through the use, when necessary, of physical means to compel compliance. State law is coercive as well as an institutional form of normative order” (MacCormick 2007: 54).

By means of public law states define and apply regimes of rights and duties, decide who will be entitled to rights or affected by duties and under which conditions. Law hence is an “institutional normative order” with an “aspiration to order in the sense of orderliness” (MacCormick 2007: 11). As a strategic vehicle in order design processes law is never just “a given” external factor of governance processes¹¹, but actors in any field of governance constantly “engage in shaping and reshaping the law as part of their regulatory activity” (Morgan and Quack 2010: 299f). The role of public law in ordering the social world is highly political, normative, and always on-going, depending on the objectives entailed in the overarching governance processes that make use of public law in order-design.

Public law defines who can access public universities and under which conditions, public medical treatment, public pensions, who has to serve in the military and who does not, what constituted speed-driving and how is it punished, who has to go to school; we could think of myriad examples of classifications that states design in legislation. With each amendment of legislation or implementation practice public law confirms or re-defines insider and outsider positions. Across the variety of regulatory fields – schools, pensions, health care, military, tax system, civil service, labour market etc. – individuals can be insiders and outsiders at the same time. Migrants can be formally entitled to reside but excluded from the labour market, as in case of workers from the recent accession countries Romania and Bulgaria in some EU countries or in case of asylum seekers who are not allowed to work for an initial period of residence (Bloch 2008; Carmel and Paul 2009). These reflections re-emphasise the state’s symbolic power in migration policy: it can design and impose arbitrary classifications and legislative categorisations of the world through its power of legislation and its monopoly of legitimate physical and symbolic violence¹².

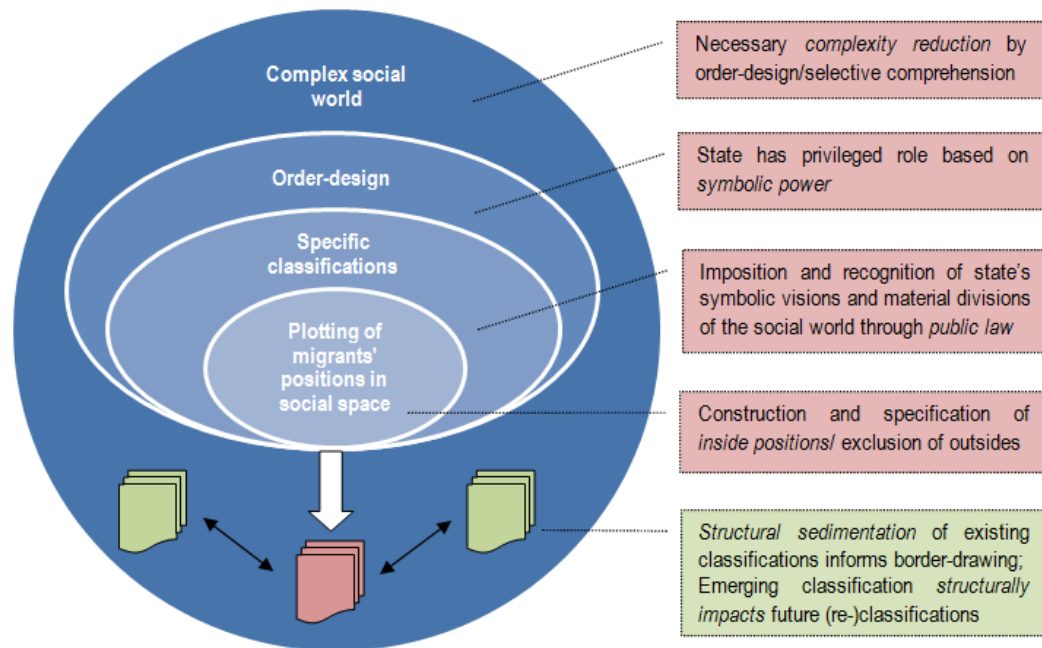
How can we trace instances of classification in public law? Classifications draw on specific criteria to distinguish between the categories created in this very classification. It is by studying and analysing classification principles and criteria then, that we can trace where borders run in labour migration. A classification is experienced by individuals wherever they feature properties that the law has defined as a criterion for inclusion or exclusion, actively or passively. For example, if the law establishes age as a criterion for classifying those allowed to buy alcoholic drinks then the border to drinking will be experienced through age. The same happens in migrant

¹¹ Section 2.3 will discuss the structurally embedded and structuring character of classification processes in more detail.

¹² On a meta-analytical level we could argue that the recognition of the state’s monopoly of physical force and enforcement as legitimate in itself represents a successful classification as it largely goes uncontested.

admission policies: legal migrant workers are selected and classified according to certain criteria, while those who do not fulfil these criteria are deemed to remain outside the country or occupy illegal positions. It will be the task of the thesis' empirical work to identify classification principles for migrant workers in legislation and analyse them in comparative perspective.

Figure 2.2: Border-Drawing as Classification in Public Law



Source: author's compilation and design

In summary, the critique of migration control literature in this section has exposed its predominant inability to account for non-physical demarcation processes in labour migration policy, and a related underestimation of the role of the state in this policy field. The theoretical engagement with Baumanian order-design and Bourdieusian classification has positioned this thesis in opposition to control gap scenarios. I argued that through legislation states powerfully classify migrants and allocate differential statuses and rights within their territory. Statutory classifications include and exclude migrant workers from formal access to labour markets, welfare states and so on and define the conditions under which legal access can be granted and with what specific set of rights. These powerful state activities have been conceptualised as border-drawing and operationalised as legal classification.

2.3 *Meaningful Border-Drawing: Semiosis, Governance, Selective Arrangements*

Equipped with the concept of border-drawing and its operationalisation as legal classifications, this thesis can analyse how states comparatively classify migrant workers. That perspective would allow the researcher to identify patterns of sorting ‘good’ migrants into the pot and ‘bad’ ones into the crop. What it does not expose, however, is which assumptions inform judgements about ‘good’ and ‘bad’ and hence what classifications in labour migration admission policies *mean*. Classification processes are inevitably guided by, and enact, specific normative classification criteria. The policy tools listed in the introduction indicated that borders for labour migrants can emerge from economic considerations such as labour demand, or the quality of recruits, but they might also be charged with welfare state logics, historical relationships between sending and host countries and so on. Classifications are inherently normative, purposeful, highly political, and hence revisable and changeable: ‘Illegality’ is “a status resulting from political decisions made by governmental representatives, who could just as well have decided to allow migrants to enter” (Chavez 2007: 192).

Three further conceptual specifications are required to pursue an analysis that seeks to understand the meanings vested in border-drawing and respective legislation. I use theoretical reflections from a particular branch of policy analysis and governance studies as well as cultural political economy to capture meanings, strategic selection, and arrangement of classification principles in labour migration policy. The first highlights the normative prescriptions that underpin the choice of particular classification principles, and dedicates a vital role to *semiosis* in policy analysis. The second establishes the state’s *strategic* role in classification processes and conceptualises it as *selective arrangement* of classification principles, their normative references, meanings, and derived statuses and rights for migrant workers in policy. The third claims that semiotic structuration does not occur in a vacuum, but is intrinsically linked to the wider structures of the society and economy which states attempt to govern. I argue that border-drawing is informed by existing structures but also offers room for strategic (re-)structurations.

2.3.1 *Interpretivism: Meanings of Classification Principles*

Borders have been defined as products of a *normatively* underpinned classification process in which states design, reproduce and impose divisions of the social space to demarcate various legitimate (and illegitimate) positions for migrant workers within their territory and design order. But what counts as legitimate? I draw on the rich intellectual exchange in the Governance Research Group at the Department of Social and Policy Sciences at the University of Bath, and

the work of interpretive policy analysis (IPA) scholars to claim the analytical value of studying policy meanings and expose their role in the *political ordering* of the social world in governance processes.

The emergence of governance studies since the late 1980s in an Anglo-American context was mostly concerned with the changing nature of state policy and modes of coordination beyond markets and hierarchies. Studies captured changes in public service design and delivery in terms of a 'hollowing-out of the state' and established the term *governance* to encapsulate the empirical finding of less *government* (Bevir and Rhodes 2003, 2010; Peters and Pierre 1998; Rhodes 1996). Governance signified a change in the meaning of government and referred to "the new method by which society is governed", especially the inclusion of non-state actors in public coordination (Rhodes 1996: 46). This initial empirical finding stipulated a whole new range of analyses that inaugurated governance as an object of analysis to study the role of markets, hierarchies, heterarchies, the role and interaction of public and private actors in public policy-making and service delivery (Hajer and Wagenaar 2003; Kjær 2004; Kohler-Koch 2003a; Newman 2005b; Pierre and Peters 2000).

The focus on modes of coordination often overlooks the objects, substance and underpinning normative assumptions of governance processes. If border-drawing is understood as order design by imposing a certain *vision* of the social world and classifying migrant workers according to this vision, then *semiosis* is inherent to the concept and has to be part of the analysis. In the review of Bourdieu's classification approach, the role of semiosis has already been highlighted as the specific meanings and semiotic purposes vested in classifications and symbolic order constructions (section 2.2).

The outer box in figure 2.3 emphasises the role of policy meanings in border-drawing processes. The focus on *semiosis* in policy analysis is now long-standing (for a encompassing summary see Yanow 2006). Irrespective of the range of different policy interests, concepts, methods and normative underpinnings, it seems fair to argue that IPA scholars share an understanding of policy not as something that follows general laws or is determined by pre-existing structures, but that its meaning is created through the very formulation and communication of policy by miscellaneously powerful actors. Whether we talk about the 'construction of facticity' in discourse (Fischer 2007), the role of 'interpretive communities' in 'sense-making' of the social world (Yanow 2000, 2007) or the discursive and institutional control over 'parameters of the context' of social relationships (van Dijk 1997), these accounts share a focus on the meanings policy actors attach to the world and the consequences of powerful meaning ascriptions for policy. Policy and entailed classification attempts – such as border-

drawings in labour admissions in our empirical case – do not have meaning by themselves, they have meaning because they have been designed, populated with specific normative assumptions, and linked to previous symbolic orders in a particular way. This view informs a methodological approach inspired by IPA (chapter 4).

The non-interpretivist branches of policy analysis and governance studies overemphasise effectiveness and efficiency of the means selected to achieve established goals, while neglecting an engagement with the underlying values, ideas and the politically contested character of a 'given' policy and its goals to start with. Interpretive policy analysts and critical governance scholars suggest that "the effort to exclude meaning and values from the work of the policy analyst cuts the very heart out of political inquiry", and they propose interpretive-constructivist methodologies to overcome positivist empiricism (Fischer 2003: 216; also see Gottweis 2003; Hajer and Wagenaar 2003; Yanow 2000). Indeed, by concentrating on the effectiveness of territorial border enforcement, the migration control literature falls short of engaging with the underpinning meanings and values of borders and the consequences of the entailed normative judgements for the allocation of rights in the host country.

To enlighten this analytical blind spot, Carmel and Papadopoulos' (2003) distinguish between modes and methods of governance (operational dimension) and substance of what it is that is to be governed, how it is constituted through governance and with what aims and effects (formal dimension), thus overcoming the technocratic emphasis of governance studies on modes of policy coordination. Empirical analyses of regulation and governance in practice have highlighted, for example, the inherence of the norms of a *capitalist* social formation in modes of coordination (Jessop 1997; Jessop and Sum 2006; Sum 2009). Indeed, the Bourdieusian perspective taken in this thesis suggests that the state has a powerful role in the struggle over symbolic orders in governance processes, in our case the attachment of specific meanings to the borders drawn towards migrants in public law. These reflections establish an analytical perspective on border-drawing which aims to not only identify classification principles but to expose 1) the meanings and normative judgements state legislation vests in classifications and 2) the political character of this ordering process.

2.3.2 Governance as Selection and Arrangement of Classification Principles

The migration control literature has been criticised for downplaying the role of the state in structuring migrant positions in the host country. Many governance studies equally focus on the de-powering of states, perceived as shifts of authority and competency to other levels and actors,

overlooking their exercise of coercion and powerful realms of ‘metasteering’ (e.g. Jessop 2008; Newman 2005a). Critical governance studies and CPE do not just help enlightening the meanings and normative prescriptions that policy-makers vest in policies. They also sharpen the analytical focus as to the state’s powerful involvement in the *selection* of classification principles according to particular visions of and for the social world, thus dovetailing nicely with the here developed Bourdieusian perspective on the state as a privileged classifier. They moreover expose border-drawing processes as entailing a far-reaching *political ordering* of social relations.

In order to understand what a specific classification in labour migration means – say a distinction of high-skilled and lower-skilled workers – we need to reconstruct why this distinction was chosen, what meanings it carries and what purpose it fulfils in terms of political ordering. I propose a synthesis of the Bourdieusian classification approach with a critical governance perspective and some positions borrowed from CPE (Jessop 2009; Jessop and Sum 2006) to emphasise the state’s *strategic use* of semiosis in border-drawing. This informs an analytical perspective which conceptualises governance processes in migration border-drawing as *selective arrangements* of classification principles, their underpinning normative goals and differential legal statuses allocated to migrant workers in policy.

The emphasis on governance processes as selective interpretation and structuration of complex policy environments has already been writ-large in Jessop’s work on a strategic-relational approach to state power, and has been more fully carved out in the CPE approach (Jessop and Sum 2006b; Jessop 2008; Jessop 2009). I propose to apply a CPE lens to the study of labour migration for three reasons:

- it offers an analytical understanding of classification principles in border-drawing to be *selectively* framed and *constructed* according to specific normative presumptions;
- it hence helps exposing the *strategic momentum* of meaning-making in policy;
- it is particularly interested in economic formations and governance processes and hence *offers a useful analytical toolbox* and vocabulary for a study of *labour* migration as part of a wider political economy environment.

CPE provides an explanatory approach with a role for semiosis beyond relativism. It rejects the notion of infinite interpretations, acknowledges the powerful role of privileged actors to selectively structure meaning-making processes, and offers an analytical entry point as to why certain economic formations and interpretations get *selected* and become powerful. The focus on *selective definitions* of governance objects links strategic state activity on the one hand and the meanings and normative prescriptions vested in governance processes on the other. CPE

suggests that the emergence of certain substances and modes of coordination and the co-evolution of specific discourses can be explained in terms of their strategic variation, selection and retention (Jessop 2008; Jessop 2009).

In this context, CPE cannot hide its structuralist pre-occupation, as the authors do not analytically distinguish between actors in governance processes. I largely follow their example in this thesis: rather than focusing on groups of actors involved in meaning-making processes, I am interested in legal classifications as a preliminary end product of a complex policy-making process which in itself is not analysed. The state is perceived here as a relatively unitary classifier whose internal fragmentations (e.g. between parties or departments) and external reference points (e.g. to business, trade unions, other country's governments) have been negotiated before the preliminarily final classification regime was codified. While legal classifications entail compromises between involved policy-making actors, this analysis does not examine how this compromise came about in terms of institutional and political procedures, but studies what it substantially means and how it orders a policy field. This has conceptual and analytical implications, as the thesis' findings cannot substantiate claims about the role of individual groups of actors involved in the design of labour migration classification regimes (chapters 4 and 9).

The CPE authors further specify the entry points for an analysis of strategic selectivity in governance processes in their reference to *economic imaginaries*, arguing that a CPE approach:

"[...] highlights the role of discursively-selective institutions in the making of economic [and social] practices and, a fortiori, economic [and social] policies. Imaginaries are semiotic systems that frame individual subjects' lived experiences of an inordinately complex world and/or inform collective calculation about that world. [...] They identify, privilege, and seek to stabilize some economic [and social] activities from the totality of economic [and social] relations and transform them into objects of [...] governance." (Jessop 2009: 344)

In a Bourdieusian reading, the initial selective (and thereby political) momentum in governance that CPE highlights becomes preliminarily neutralised with the recognition and solidification of the proposed symbolic order as shared imaginary¹³. In semiotic structuration processes power¹⁴ and politics are played out through *selection*. Yet, from a critical governance perspective, the political character of border-drawing lives on with the imposed classification and its effects on the terrain and individuals to be governed through it (Carmel 2005; Carmel and Harlock 2008). The political momentum of choosing particular sets of meanings and vest them in a policy continuously

¹³ For example, Sum's (2009) work on competitiveness as a 'knowledge brand' has indicated how the combination of certain techniques, practices, structural reference points and meanings can become hegemonic in form of a widely recognised and uncontested imaginary.

¹⁴ Jessop and Sum link CPE to a neo-Gramscian hegemony analysis and a post-structuralist analysis of technologies and practices to account for power.

operates alongside that very policy; it sustains a specific political ordering of relations in the social world¹⁵. It is the policy analyst's task to identify these selective momentums, to contextualise their meanings and power in wider socio-economic structures, to reconstruct underpinning imaginaries, and to hence expose the normative claims and political character of the imposed order. Chapters 6-8 will do exactly that.

The joint reading of interpretivist policy accounts, CPE's emphasis on selection and critical governance studies' emphasis on political ordering processes leads to the argument that border-drawing entails (and relies on) selective comprehensions of the world that is to be governed and selective fixations of meanings through policy. Classifications entail constant *choices* about the norms that should guide divisions and thus impose a political ordering of relations in the social world. From an array of possible guiding principles in classification, legislation selects some and disregards others. In the case of migration policy this concerns the selection of certain classification principles for 'legal' labour admissions (skill level, for example) over others and the creation of certain positions and rights regimes for migrant workers over others. The state's attempt to sort migrant workers into different categories is of course much more complex than Cinderella's lentil classification job. There are various categories of 'good' and 'bad', including many categories in-between, more statuses than 'pot' or 'crop', and certainly a larger choice of normative reference systems to inform classification principles.

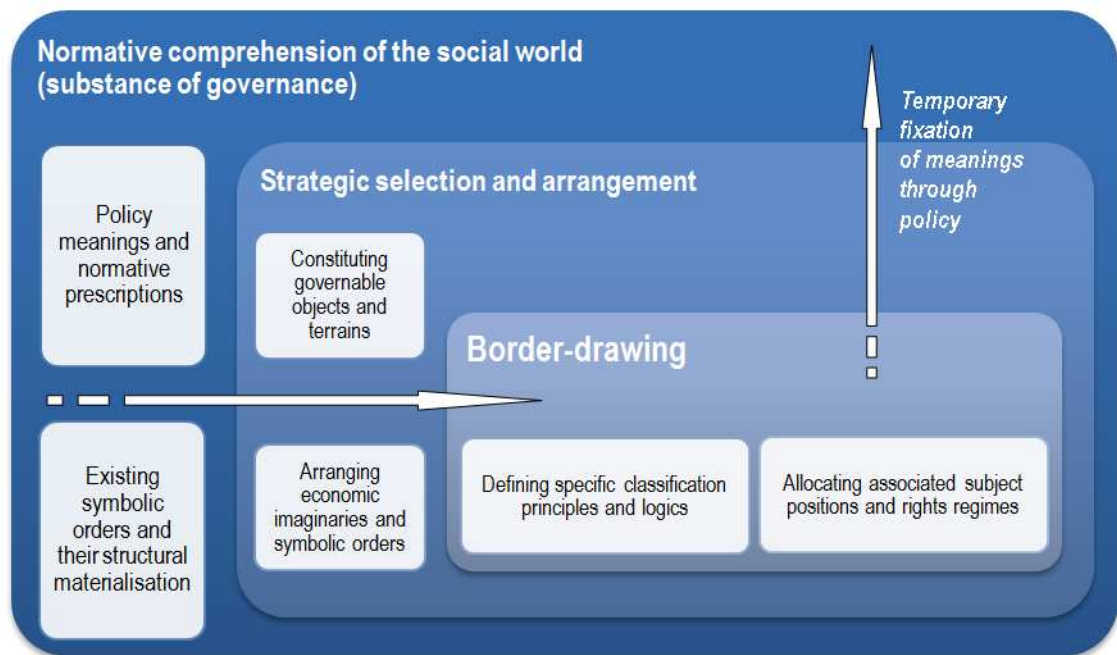
As more than one value or principle guides migrant classifications, I argue that order-design in the Baumanian sense has to be achieved through the *arrangement* of certain elements and interpretations of the social world out of a larger number of imaginable assemblages of equally large numbers of elements and interpretations. The multiplicity of potential meanings implies competition and tensions between and within different symbolic and social orders¹⁶ (Yanow 2000). I draw on the work of authors who have highlighted the role for governance to 'assemble' meanings, policy tools and migrants' legal statuses in *specific* ways (Carmel and Paul 2010; Newman and Clarke 2009), hence stressing once more the political ordering involved in policy-making. I use the term *arrangement* in this thesis to stress the inherently selective character of policy-making (CPE), highlight the strategic agency of the state in vesting specific normative judgements in classifications (Bourdieu), and expose the political ordering achieved

¹⁵ A current book project of the Governance Research Group edited by Emma Carmel conceptualises governance as an analytical approach in which the political ordering of social relations is analytically exposed through specific empirical interactions of policies, complex policy environments, and actors' struggles.

¹⁶ For example, norms and structures of capitalist economies have long been in contrast to environmentalist agendas. Strategic selection of certain aspects of both formations and their re-interpretation in relation to each other has seemingly allowed for an accommodation of environmental norms under a 'green growth' agenda (Jessop 2009).

through border-drawing (critical governance). Faced with the variety of thinkable interpretations of the world and tensions between symbolic orders, states emphasise some aspects of the social world and ignore others in policy-making. Border-drawing is a highly selective and normatively underpinned process that arranges classification principles, their underpinning meanings and resulting statuses and rights for migrant workers in a specific – and no other – way.

Figure 2.3: Strategic Selection of Classification Principles in Border-Drawing



Source: author's compilation and design

Summarising the reflections on governance as selective arrangement, I argue that an analysis of labour migration policy has to account for a) the role of semiosis in policy-making and b) the state's strategic endeavour in classifying objects and their positions in a selective way and c) the political ordering effects of classification processes. The further study then scrutinises labour migration legislation not just to identify classifications, but to explore their strategic selection and arrangement in the light of the normative judgements inscribed in these very classifications and their highly political character. I argue that this interpretive critical governance perspective offers an understanding of more than migrant workers' statuses between 'pot' or 'crop' – as in a mere identification of the different permits and sets of rights of migrant workers in a given setting. It exposes and analyses statutory migrant classification regimes as strategic and highly normative state projects with strong politically ordering effects.

2.3.3 Between Structural Embeddedness and Constitution of Meanings

Legal classifications are seldom path-breaking but draw on some already established classification systems: cross-references to existing laws, references to the country's constitution or international human rights charters, EU Directives, specific decrees in a policy field and so on. At the same time statutory classifications of migrant workers might create new statuses, and might amend and change previous structures eventually. I consequently argue that classifications in their role as semiotic structuration processes are *structurally embedded* and *structuring* at the same time, and have to be analysed accordingly.

This perspective is based on Bourdieu's (1991) claim that the whole social world is present and is being under reconstruction in any one classification. A similar point has been stressed in institutionalist theory lately, which emphasised the structural embeddedness of agency involved in path (re-)creations and institutional innovation (Crouch 2005). These views imply that meaning-making is neither completely determined by its structural environment nor fully relativist and particular, it is structured and structuring at the same time. Not 'anything goes' in classification processes: Bourdieu and CPE scholars equally highlight both the structural embeddedness of sense-making processes and their role in strategic (re-)constitutions of relationships and meanings in the social world. This stresses the dynamics between *construal* and *construction* of the social world (in Jessop's terms), the dialectics of *vision* and *division* or *description* and *inscription* (in Bourdieu's terms), and the need to integrate constructivist and constructionist ontologies in this thesis' analysis of border-drawing in migration. More precisely related to *legal* classifications, Bourdieu (1987: 816) has defined law as "a symbolic order of norms and doctrines" which "does not contain within itself the principles of its own dynamic". According to Bourdieu's reconciliation between formalist and instrumentalist perspectives of the legal field¹⁷, changes and directions of the codified symbolic orders stem from the political and normative judgements involved in order-building attempts and are hence *constituted* in policy-making. Yet, the law is equally contextualised by the surrounding structure of the juridical field and other interacting fields with their pre-established symbolic orders, policy-making is hence *structurally embedded*¹⁸.

The *structural embeddedness* of border-drawing implies that classification attempts and the associated meaning-making necessarily contain references to already established structures

¹⁷ the former perceives law as a self-referential system autonomous from policy-making, overlooking its political character; the latter conceives of law as fully instrumental to policy-making, overlooking its role in shaping the very context in which policy-making takes place (Bourdieu 1987)

¹⁸ In the critical governance approach developed in the research group at the University of Bath, we have captured this dualism by analysing the interaction between policy environments, actors and policies in governance processes.

and symbolic orders and are hence structurally embedded. Indeed, structural cross-references make semiosis possible in the first place; any semiotic utterance needs an already established and recognisable semiotic reference point to 'make sense'. Institutional terminology refers to path dependency in this context. Empirically, Jessop and Sum's empirical work but also that of other authors, identifies a particular kind of socio-economic order as main structuring normative reference point, exposing how post-Fordist capitalism shapes and imposes organisation principles such as deregulation, privatisation, decentralisation, competition, individualisation and so on onto societies and states (Blaney and Inayatullah 2010; Cerny 1997; Cerny 2010).

The *constitutive character* of border-drawing, by contrast, highlights the construction of 'facticity' through policy-making (Fischer 2003). CPE introduces the term 'sedimentation' to expose forms of naturalisation and routinisation that factualise initially contested interpretations of the social world and "gives them the form of objective fact of life" (Jessop 2009: 340). Once created, legal orders can "become hard realities, facts that constrain us, not merely norms that guide our autonomous judgment" (MacCormick 2007: 33). Symbolic claims like 'we do not need lower-skilled workers' or 'high-skilled workers benefit economic growth' can acquire the status of tacit knowledge beyond contestation and can as such be drawn on as notional 'fact' in future classification struggles. Underpinned by the associated restrictive or liberal labour admission practices, a symbolic classification – say by skill level – fuels a structurally consequential division of the social space for migrant workers and informs future understandings of legitimate distinctions. By drawing on welfare state dynamics in labour migration policy, for instance, and trying to exclude certain migrants from access to benefits, the very structure and logics of welfare provision and social citizenship in a country is equally under re-construction (Bommes and Geddes 2000a; Schierup, Hansen et al. 2006). The selective arrangement of classification principles then does not just connect to wider socio-economic structures; it equally reconstitutes them in political struggles over meaning.

This section highlighted the normative character of classification, dedicating a vital role to *semiosis* in policy analysis. I established a *strategic* role for state policy in classification processes and conceptualised this as *selective arrangement* of classification principles, their meanings, references points, and eventual statuses for migrant workers. I highlighted the political ordering effect of these processes. I further contended that selective arrangements are informed by existing normative references, while also offering scope for reshaping or indeed constituting them. Taking semiosis and the selective arrangement of policies seriously then means to consider both the structurally embedded and constitutive character of classifications in this thesis' migration policy analysis.

2.4 Conclusion and Specification of Analytical Focus

This conceptual chapter departed from the migration control literature to specify the state's role in labour migration policy, establishing a theoretically informed research strategy. I argue that migration policy is not just a matter of effective territorial border control, with states failing to close 'gaps' in physical borders that loom due to economic, liberal-democratic and supranational pressures, as part of the literature suggests. I critique migration control accounts for their bias towards physical border controls, a dichotomous notion of inside and outside and blindness towards the various stratification mechanisms and effects within a state's territory. To overcome these conceptual shortcomings, I propose a Bourdieusian reading of migration policy, contending that the state powerfully channels migratory flows: it uses its symbolic power of legitimate classification to draw borders between several 'legal' and 'illegal' positions for migrant workers and allocates to them highly differential statuses and right regimes. I hence conceptualise state activity in migration policy as statutory *border-drawing* and suggest this operates on the empirical site of public law. The chapter has further drawn on critical governance perspectives, IPA scholarship and CPE to highlight the inherently *normative* character of classifications, establish a strategic role for the state in classification processes and conceptualise this role as *selective arrangement*, and establish the simultaneously *structurally embedded* and *constitutive* character of selective arrangements.

The conceptualisations, operationalisations and methodological commitments set out in this chapter carve out the specific analytical perspective of the thesis. To explain comparative similarities and differences in labour migration management in the EU, the study dedicates its analytical heart to understanding the meanings vested in border-drawing, their normative reference points, and their selective and strategic arrangement in labour migration policy across the three cases studied. The following sub-questions emerge from the reflections in this chapter:

- R1: How do labour admission regimes de jure classify migrant workers?
- R2: Which meanings are vested in these legal classifications?

This investigative agenda informs an interpretive methodology (chapter 4). What we still lack for a well-informed empirical analysis are more concrete ideas about the character, logics, and locus of the structural and normative reference points of border-drawing activities. We require an empirically informed understanding of *border-drawing dimensions* and *border-drawing sites*. The next chapter reviews comparative migration literature to identify viable analytical entry points for a comparative analysis of border-drawing and its meanings.

3 Border-Drawing across Empirical Dimensions and Sites

Using the analytical lens on meanings of border-drawing from the previous chapter, this chapter establishes empirical *dimensions of border-drawing*, examines potential *border-drawing sites*, and develops idealtypical assumptions about their potential interaction with labour migration on the basis of existing comparative migration research. In doing so it carves out the theoretical benchmarks for the comparative analysis of the thesis. I distinguish literatures which predominantly address an economic, social, and politico-legal dimension of border-drawing. I argue that each one dimension can be empirically captured in terms of reference to a specific border-drawing site, reviewing comparative migration literatures which have focused on capitalist economies, welfare states and citizenship regimes. According to this research, regime theories can be expected to account for the most relevant border-drawing sites and well capture the respective three border-drawing dimensions. I therefore contend, borrowing from Sainsbury's (2006) perspective on comparative 'ways of doing welfare' regarding migrant inclusion, that regime literatures offer viable analytical entry points for the comparative analysis of labour migration management. They can inform assumptions about the potential logics and normative frameworks underpinning labour migrant classifications. The chapter reaches to the semiotic heart of classification principles: by reviewing comparative migration studies that have drawn on regime literature I gather presumptions about the meanings vested in labour migration border-drawing, and consequently specify the empirical-analytical benchmarks of this thesis.

Regime literatures involve typologisations of empirical cases for comparative purposes, with typologies being results of a grouping of empirical cases into internally homogenous and externally heterogeneous categories (types) by means of comparison and contrasting (Kelle and Kluge 2010). As Max Weber's use of ideal types indicates this grouping is not self-evident; it relies on conceptual assumptions which highlight specific aspects of the empirical world: the purpose of concepts in typologies "is to synthesize meaningful, characteristic aspects of individual phenomena in order to explain the occurrence of social events" (Hekman 1983a: 121). Typologies are understood and presented here (tables 3.1-3.3) as theoretical benchmarks¹⁹ which offer a specific analytical focus on the norms and logics of border-drawing in *one particular* dimension. The present chapter concentrates on the schematic comparative explanatory value of typologies as 'different ways of doing' capitalist coordination, welfare, work, citizenship and migrant integration; exact locations of each case will be discussed later in chapter 5. Based on a

¹⁹ This consciously disregards the changing nature of empirical types, and potential for convergence and divergence between them (for welfare regimes: Arts and Gelissen 2002; for varieties of capitalism: Blyth 2003).

brief review of regime claims²⁰ in each border-drawing dimension, I develop assumptions about their individual role in foreign labour admission legislation in comparative perspective.

As each regime literature by itself covers only one dimension of border-drawing – economic, social or politico-legal – each of them inevitably underestimates the relevance of the others. I do not consider this a weakness of regime literatures, just having specified the analytical usefulness of typologies in accentuating specific aspects of the social world. Instead, comparative (labour) migration accounts are to blame for usually drawing on only one type of regime theory and hence ignoring the multidimensional character of policies. By scrutinising the three dimensions across three respective border-drawing sites, this research aims to account for the multidimensionality of border-drawing processes in labour migration policies, and to examine and explain them in comparative perspective. I eventually herald a combination of so far merely co-existing parts of literature, and suggest assessing the very interplay of different border-drawing sites in labour admission policies (figure 3.4). The multidimensional perspective renders the analysis alert not only to the comparative nuances of border-drawing in any one dimension. The perspective on selective arrangements of meanings in governance processes – introduced in chapter 2 – goes beyond this description: It will enable me to explain comparative similarities and differences regarding the arrangement of classifications and their meanings in light of the empirically found interaction dynamics between the economic, social and politico-legal dimension of border-drawing.

3.1 Comparing Economic Border-Drawing: The Site of Capitalist Coordination

The return to active foreign labour recruitment since the late 1990s in Europe – after the official suspension of post-war guest-workers schemes following the 1970s oil crisis and subsequent economic recession – has triggered increasing academic attention from political economy scholars. Manifold are the accounts of the economic and demographic ‘pressures’ that lead governments across Europe to once again facilitate labour recruitment, and the attempts to compare the respective economic coordination responses across countries (e.g. Castles 2006; Cerna 2009; Devitt 2011; Menz 2009; Menz and Caviedes 2010b; Ruhs and Anderson 2010b). Scholarship widely agrees that the rediscovery of migrant workers as “potentially useful human

²⁰ For brevity typologies focus on EU-15 countries which represent the pool for case selection (chapter 4). Equally, the aim of this chapter is not to give a detailed account of each EU-15 country’s position in different typologies. The mapping of different typologies informs an initial sense of the broader empirical field of border-drawing, informs case selection, and serves as a benchmark for the thesis’ empirical analysis and discussion.

resources” informs highly selective and utilitarian admission regimes: “Migrants are welcome as long as they promise to contribute to the prerogatives of a business-friendly national economic growth strategy.” (Menz 2009: 31).

The comparative political economy branch of the migration literature thus predominantly highlights the *economic dimension* of border-drawing in the recently revitalised labour migration policy field and scrutinises the site of capitalist coordination to explain policies. In order to develop first empirical insights in economic border-drawing mechanisms entailed in labour migration management, this section reviews a) accounts that scrutinise the organising principles of capitalist coordination systems in post-Fordism, and b) comparative perspectives on the variable organisation of capitalism in Europe (varieties of capitalism). These reviews inform idealtypical presumptions about the economic dimension of labour migrant border-drawing as played out on the site of capitalist coordination systems.

3.1.1 Capitalist Coordination Hegemony? Labour Migration in the ‘Competition State’

Instead of assuming irresistible economic push-and-pull factors (as the rational choice migration control accounts reviewed in chapter 2.1), political economy scholars of labour migration do not see economic ‘pressures’ as sources of border control gaps. Rather, they report highly selective patterns of labour recruitment which create clear division between legal and illegal workers, and explain them with respect to underpinning norms of capitalist coordination. These accounts hence match this thesis’ conceptual understanding of statutory border-drawing processes in migration as both powerful and meaningful (chapter 2).

Labour migration researchers assume that the “structural transformation of the European political economy” creates a shared setting in Europe for “new strategies and designs of labour migration policy” (Menz and Caviedes 2010a: 2). They argue that these strategies are embedded in (and normatively informed by) wider economic coordination processes, which hence form a significant analytical backdrop of this thesis. The introduction alluded to the distinct post-Fordist character of the revitalised recruitment policies of the 1990s in terms of their selectivity and focus on ‘high quality’ of skills recruited (Cerna 2009; Menz and Caviedes 2010a; OECD 2009). Political economy accounts largely assume that labour migration is ‘another tool for growth’²¹ in the very specific capitalist environment of post-Fordism which focuses on growth and competitiveness.

²¹ This is a catch-phrase used by a French interviewee (FRA6-GOV) to summarise this growth perspective (chapter 7.1 for analytical details).

They suggest that national economies require selective labour migration to compete successfully in a globalising economy, and ascribe a facilitating role to the state. Labour migration policy is seen as an adjunct of capitalist value and wealth accumulation, and necessarily implies the values and mechanisms of the very economic arrangement that it is designed to be a part of. It is hence not accidentally that Menz draws on Cerny's (1997) famous 'competition state' concept in his analysis of re-emerging labour migration policy in Europe.

A brief review of more recent capitalist state theory – as alluded to in Menz' work for instance – illuminates potential trajectories of *economic* border-drawing in labour migration. With his 'competition state' concept, Cerny (1997: 272) has described globalisation-induced shifts from *welfare state* to *competition state*, with a changing role for state policy towards "the promotion of economic activities, whether at home or abroad, which will make firms and sectors located within the territory of the state competitive in international markets". Mainly, state regulation concentrates on promoting the international competitiveness of the national economy and market mechanisms²² increasingly determine social relationships. A domestic 'raison d'état' embodied in the production of national welfare, full national employment, social solidarity and justice has given way to a 'raison du Monde' which embraces the logics of economic association and international capitalist competition (Cerny 2010). Cerny sees a strong role for the state in this context: rather than making state regulation redundant economic globalisation "necessitate[s] the actual expansion of *de facto* state intervention and regulation in the name of competitiveness and marketization" (Cerny 1997: 251). This view does not only support the argument of persistent state power heralded in this thesis more generally, it equally informs an understanding of the potential directions of economic border-drawing in labour migration a view paragraphs further on.

Bob Jessop's famous portrayal of the Schumpeterian workfare post-national regime (SWPR) has diagnosed a similar tendency in contemporary state-economy relationships (Jessop 1999, 2002). He depicts the role of the state in capitalism as securing the key conditions under which valorisation of capital and the reproduction of labour (understood as wages and welfare) are possible (Jessop 2002). State policies, according to Jessop and Cerny, thus internalise the logics and the dynamics of the economic system. Part of Jessop's encompassing analysis²³ then portrays the shift from Keynesian demand steering and active fiscal policies as prime state

²² More precisely, features such as the flexibilisation of labour markets, privatisation and deregulation, inflation control, and residual welfare and spending are incorporated into state strategies to make the national economy – including labour markets – more competitive in global markets (cf. Menz 2009).

²³ Due to the limited scope of the present empirical analysis of labour migration, I take the liberty to neglect a detailed account of Jessop's other three dimensions of analysis – role of social policy, scale of governance, and main mechanisms of regulation and governance – here and concentrate on the mode of capitalist accumulation.

functions in the Fordist period, towards supporting Schumpeterian innovation and growth strategies since the 1970s and 1980s. Economic coordination processes hence embrace innovation as crucial means of wealth production and target the promotion of a 'knowledge-based economy' to boost innovation-induced growth.

The normative prescriptions of 'competition state' and Schumpeterian capitalist production have equally informed post-structuralist theorisation in political economy. Sum (2009), for example, shows how competitiveness is installed as a dominant organising principle in economic and political governance by means of benchmarking reports and indexes. In a similar vein, Thrift (2010) highlights the role of 'imagination' and virtuous 'talents' in the Schumpeterian economy: an affectionate discourse about their miraculous potential to spark of innovation and growth surrounds talents, often largely disconnected from any empirical facts as to their 'real' economic impact. These examples indicate that the normative assumptions vested in competitiveness and innovation agendas are an important part of economic coordination processes more generally. As such, they are likely to inform the classification nomenclature in labour migration as well.

We can draw on Menz' pioneering work on post-Fordist labour migration schemes to enlighten the link between competitiveness and migration. In order to retain attractiveness 'in the eyes of long-term foreign investment' (Menz 2009: 31), and to meet national productivity and growth objectives, labour recruitment policies seem to be designed to attract 'mobile international human capital'²⁴. Within the scenario of competition state and Schumpeterianism depicted earlier, who counts as desired 'human capital' will depend on the degree to which a migrant worker promises to dovetail the competitiveness and innovation agenda.

Indeed, economic border-drawing in support of growth, innovation and competitiveness strategies is highly visible in the EU's attempt to create a common legal migration scheme (CEC 2000, 2004, 2005). Through their link to the Lisbon Agenda's growth objectives²⁵ EU labour migration policy approaches strongly reflect the Union's market-making rationales. The EU Commission (2004: 3) highlights "the need to review immigration policies for the longer term particularly in the light of the implications which an economic migration strategy would have on competitiveness and, therefore, on the fulfilment of the Lisbon objectives." Some take statements such as this as evidence that "market-driven migrant selectivity is irrevocably becoming a major determinant of migration flows in the EU" (van Houtum and Pijpers 2007: 301). Yet,

²⁴ Employers have played an active part in leading governments to include competitiveness rhetoric in their migration policy-making (Menz 2010a).

²⁵ Mainly targeted at growth and competitiveness and job creation in the EU economy

competitiveness rationales do not only matter with regard to the EU's positioning regarding the US or East Asian economies, it equally intensified competition for labour force within the EU (Verwiebe 2004; Zaletel 2006). This is where a comparative analysis and discussion of labour migration policies within the context of the EU, as outlined for this thesis in chapter 4, can highlight common economic border-drawing trajectories as well as nationally distinct competitiveness and innovation agendas.

The re-definition of state functions in capitalist economies bears consequences for migrants' statuses in host countries beyond initial recruitment. Schierup et al. (2006) demonstrate that migrants' social and politico-legal integration increasingly depends on their economic contribution, hence forging a model of 'economic citizenship'. More recent comparative work has confirmed the weight of economic utility considerations for migrants' social protection in Europe (Carmel 2011; Carmel, Cerami et al. 2011; Kaiser and Paul 2011). From these reflections on economic border-drawing, we can expect migrant workers' anticipated or actual economic contribution, expressed through the normative frameworks of innovation, competitiveness and growth, to co-shape their legal statuses and rights.

3.1.2 *Varieties of Capitalist Coordination*

Despite the acknowledgement of common organising principles of current capitalist economies, research indicates that what competitiveness and innovation mean and how they are believed to be achieved can vary considerably between countries. Menz (2010a: 45) argues that the rediscovered "appetite for labour migrants" among European employers and governments is highly selective and nationally variable according to the required skill levels and type of skills. Rather than operating one-size-fits-all admission systems, governments have developed fine-tuned responses to sectoral shortages and "only opened to workers in particular occupations, such as engineering, care-giving, or food processing" (Caviedes 2010: 70). Sectors in need of extra workers might not be the same across countries and cause highly variable classifications of migrant workers as 'competition-supporting' and hence 'legal'. Such empirical observations draw foremost on the varieties of capitalism (VoC) literature to make comparative claims about migrant recruitment policies. If capitalist coordination systems are understood as a main site of economic border-drawing, then a brief review of VoC claims promises to offer valuable insight into underpinning normative frameworks.

The VoC literature (Hall and Soskice 2001b) distinguishes different modes of capitalist coordination (table 3.1). The idea of institutional coherence and complementarity in economic

governance serves as an analytical starting point in Hall and Soskice's (2001a) account of capitalist variation²⁶. They argue that, in order to be productive and competitive, companies have to negotiate and coordinate their activities across different institutional spheres, and are inclined to do so in a mutually reinforcing way. Different product market strategies lead to a different institutional set-up to support competitiveness. The institutional spheres include industrial relations, vocational education and training (VET) systems, corporate governance, inter-firm relations and relations with the firm's own employees.

The crucial comparative claim of VoC then is that this functionalistic interdependence of coordination mechanisms across spheres can take different, yet equally successful, directions:

"Broadly speaking, liberal market economies are distinguishable from coordinated market economies by the extent to which firms rely on market mechanisms to coordinate their endeavours as opposed to forms of strategic interaction supported by non-market institutions." (Hall and Soskice 2001a: 33).

Table 3.1: Capitalist Coordination Regimes in the EU

Variety of Capitalism	Subtypes	Country (Case)
Liberal Market Economies (LMEs)	Market-led capitalism (state as liberal arbiter)	UK, Ireland
Coordinated Market Economies (CMEs)	State-led capitalism (state as interventionist leader)	France, Italy, Sweden
	Managed or negotiated capitalism (state as enabling facilitator)	Germany, Austria (Netherlands)

Sources: Hall and Soskice 2001a, Coates 2000, Schmidt 2002b

Both Coordinated and Liberal Market Economy type feature specific 'comparative advantages' over the other in terms of competitiveness. Liberal Market Economy (LME) firms tend to rely on radical innovation and shorter term profitability. Current earnings and tribute to shareholder values matter most in financial corporate governance, and firms' ability to raise capital on financial markets depends on their short term profitability. Flexibility in staff turn-over is essential to adapt to changing profitability patterns, and a focus on general skills in the VET system caters for highly volatile skill needs. Competition characterises inter-company relations (Hall and

²⁶ This idea has been developed on the basis of the French regulation school tradition (Hollingsworth 1997; Hollingsworth and Boyer 1997).

Soskice 2001a: 27-31). Firms in Coordinated Market Economies (CME), by contrast, more often follow a strategy of incremental innovation. This is supported by a financial system and corporate governance structures that issue companies with capital regardless of profitability fluctuation. Companies mostly draw on a highly-skilled and specialised workforce, and firm-specific skills are provided through a specialised and highly diversified VET system. Skilled workforce is retained during minor recessions and industrial relations secure corporate commitment to high-skilled jobs through wage-bargaining, long-term employment tenures, protective work councils etc. Firm-internal structures reinforce network monitoring systems of long-term reputation; market shares and intra-company relations feature trust-based processes (Hall and Soskice 2001a: 22-27).

VoC accounts have been criticised mainly for its dichotomous vision of capitalist coordination, institutional determinism, static conception of coordination settings, underestimation of economic segmentation and disregard of the state's role as regulator (Amable 2003; Blyth 2003; Coates 2000; Crouch 2005; Hancké, Rhodes et al. 2007; Kitschelt, Lange et al. 1999b; Schmidt 2002). I contend, however, that a VoC perspective can inform the empirical analysis of economic border-drawing in this thesis for three main reasons. Firstly, even authors who have developed own typologies and taxonomies in critical response to VoC, mostly maintained the core analytical distinction between market-led and non-market-led coordination processes (table 3.1). Some refine the category of CME according to specific non-market forms of coordination²⁷; yet, the crude distinction made by Hall and Soskice preserves its empirical-analytical importance. Capturing seemingly relevant empirical variations of capitalist coordination, VoC hence offers a suitable source of assumptions about economic border-drawing in labour migration policy. The next subsection will substantiate this claim, drawing on empirical work that scrutinises labour migration through a VoC lens.

Secondly, a shift of analytical focus away from firms' strategies towards the role of state policies enlightens how public policy discourses powerfully shape economic coordination processes across regime types. According to Schmidt's 'discursive institutionalism' (2002; 2008) policy legacies and cultural frameworks in different countries work as contextual filters that produce and reproduce capitalist diversity, with a potential to change regimes over time. Schmidt argues (2002: 113) that states can act as 'liberal arbiters', 'enabling facilitators' or 'interventionist leaders' in capitalist coordination processes, forging three different models of capitalist state discourse and intervention which align with the prototypical cases of UK, Germany and France

²⁷ Coates (2000) distinguishes between state regulation and trust-based coordination; Kitschelt, Lange et al. (1999) between national and sectoral coordination.

(table 3.1). She equally reports trajectories of path changes hence highlighting both the structurally embedded and constitutive power of semiosis in public policy (cf Crouch 2005; Palier 2010b). This perspective dovetails nicely with both the interpretive approach of the thesis and its Janus-faced analytical perspective on both structural embeddedness and constitutive character of border-drawing in the field of labour migration (section 2.3). The empirical coverage of the same cases adds another motive for drawing on Schmidt's work for idealtypical assumptions about economic border-drawing in German, French and British labour migration policy.

Thirdly, VoC accounts can be critiqued for not addressing labour market segmentations. Hugely concentrating on a prime segment of the national economy – the automotive industry in Germany or the financial sector in Britain – they neglect particularly relevant parts of the economy in the empirical context of labour migration. Research into migrant employment has identified highly segmented labour markets, often with a focus on informal economies in Mediterranean countries (Ambrosini 2001; Boswell and Straubhaar 2004; King, Lazaridis et al. 2000; Quassoli 1999; Reyneri 2004). But studies of informal migrant labour in the German care sector or the reliance on cheap exploitable migrant labour in British food processing clearly evidence labour segmentation and informalisation processes beyond Southern Europe (Geddes and Scott 2010; Lutz and Palenga-Möllenbeck 2010).

From the border-drawing perspective developed in this thesis (chapter 2) VoC's inherent neglect of non-prime economic sectors and sheer disregard of the informal economy is not problematic; it becomes part of the analysis. If the subsequent empirical analysis were to confirm VoC patterns with regard to migrant worker classifications, this would imply that migration outside prime sectors of the national economy is illegalised. In border-drawing, I argued earlier, the classification of specifically selected labour migration flows as 'legal' sorts all others into informal economic statuses. A VoC-confirming finding would then not just emphasise the state's strategic role in facilitating competitiveness by attracting the workforce that Volkswagen or HSBC require in VoC stereo-typical manner. It would equally highlight the effects of selective border-drawing which, by 'fashioning' an illegal workforce through restrictive regulation, tolerates or sustains informal labour market segments (Anderson 2010; Morice 1996; Samers 2010). The contextualisation of labour migration regulation in the respective country's wider labour geography in chapter 5 – including the role of the informal economy and its relationship with other types of migration – will anchor this thesis' empirical analysis accordingly.

3.1.3 *Typological Assumptions about Economic Border-Drawing*

Capitalist coordination systems are bound to act as highly influential border-drawing site in a policy field that has been revitalised predominantly, it seems, as an economic growth strategy only a decade ago. Appraised jointly capitalist state theory and the comparative VoC perspective fuel far-reaching theorisations of the normative underpinnings and empirical implications of economic border-drawing in labour migration. Firstly, capitalist state theory would expect migrant workers' anticipated or actual economic contribution, expressed through the normative frameworks of innovation, competitiveness and growth, to co-shape their position and rights in the host country. A VoC standpoint adds some specification as to potential empirical variations across economies. Though labour migration was not part of the original or later extended VoC framework, I suggest that it fits well into the notion of complementarities²⁸ in an economy. Parallel to the VET system, migrant labour recruitment is likely to be used – at least to some extent – strategically to provide companies with the labour they require to be innovative and competitive.

Consequently, foreign labour recruitment strategies might entail diverse focuses and logics in LMEs and CMEs. Due to the recent character of reactivated labour migration policies, the relevance of VoC to explain and understand national variation in recruitment strategies has only begun to be assessed (Cerna 2009; Devitt 2011; Menz 2005, 2009; Menz and Caviedes 2010a). Menz' (2009: 261) research evidences regime-typical divergence in labour recruitment policies as “different models of political economy shape distinct strategies for labor recruitment from abroad”. This predominantly concerns the variable regulatory focus on recruiting workers of specific skill levels and skill compositions. More precisely:

“CME production patterns [...] require mainly highly skilled well-trained labor migrants that can easily be integrated into a high value-added production pattern [...] LME production patterns necessitate a steady supply of labor migration into both low-wage low-skill service sector positions where poor working conditions and wages are combined with structural flexibility requirements lead to low staff retention.” (ibid)

Further, different labour market regimes might display different patterns in allocating economic rights to migrant workers. For example, LMEs might govern labour entries less rigidly, as lower job protection allows staff high turn-over and flexibility for employers within this capitalist coordination regime. The argument would then be inversed for CMEs with their higher levels of

²⁸ This notion can be criticised as policies and sub-systems of the economy and social-market relations are more complex and contradictory in practice. Yet, I argue that the state's attempt to create a coherent and complimentary economic governance strategy is visible in the realm of migration policies. Whether this attempt it is eventually successful or whether it is hampered in practice is a question beyond the realm of this thesis.

job protection potentially acting as incentives for more careful and rigid admissions into employment initially. Initial studies of foreign labour recruitment across regime types have supported this claim (Cerna 2009; Devitt 2011).

A last claim concerns interactions between capitalism and welfare. VoC theorises the more generous status-maintaining benefit levels in CMEs as a strategy of employers for forming and attracting required workforce with high industry- and firm-specific skills (Estevez-Abe, Iversen et al. 2001; Iversen and Stephens 2008). Higher social protection levels are interpreted as a way of incentivising specific skilling strategies among the workforce, thus sustaining the particular competitive advantage of CMEs. By the same token, lower protection levels of employment and against unemployment in LMEs coincide with companies' predominant reliance on generic skills. This logic can be expected to have some ramifications for migrant workers as well, as specific skill needs in CMEs might be moderated by means of more generous rights. While we can certainly take issue with the axiom of rational employee decision-making regarding skill formation preferences, VoC's notion of complementarity of socio-economic institutions within a production regime points to the importance of interactions between the economic and social dimensions of border-drawing, an analytical specification that the next section will discuss in more detail.

From the engagement with modes of capitalist coordination in this section, the comparative empirical analysis of the thesis is directed towards the following principles of economic border-drawing:

- focus on economic utility of migrant labour with regard to competitiveness, growth and innovation aims across regime types
- focus on high-skill and specific skill level recruitment, potentially also sector-specific, in CMEs
- focus on more generic and also lower-skilled access routes in LMEs
- links between the CME production mode and more generous welfare provision as an incentive for migration of specifically skilled workers
- more liberal admission policies in LMEs with their deregulated labour markets
- tighter regulated CME labour markets with more restrictive admission policies

This list sharpens the analytical focus to trace the impact of notionally common trajectories in post-Fordist economic coordination on labour migration policy-making, but equally leaves room for analysing potential national divergences in the specific organisation of growth and economic competitiveness through migrant labour recruitment.

3.2 Comparing Social Border-Drawing: The Site of Welfare State Regimes

A plethora of academic studies have shown the inadequacies of mere *economic* conceptualisations of labour migration in the post-war era. Guest-worker programs “created the illusion that immigration was really an economic matter, and that the state could easily intervene in the marketplace to close the immigration valve”, mainly during the downturn after the oil crisis in 1973 (Hollifield 1992: 73). Unplanned settlements, continuing family reunions, and migrant workers’ acquisition of welfare entitlements after the recruitment stop are examples in point. The misunderstanding of the social, political and cultural nature of migration is believed to have further carried adverse effects for migrant integration and social cohesion (Bommes 2000; Castles 1986, 2006; Sainsbury 2006). In a Polanyian (2001 [1944]) reading, a managed migration scheme that solely considers the economic nature of labour migration falls into the trap of overlooking the ‘fictitious’ character of labour as ‘commodity’. From this stance the social regulation of markets – including labour markets – is a main state activity which ensures socially acceptable outcomes of economic processes (Bienefeld 2007). While economic calculations might be core to labour migration border-drawing and explicable with literatures discussed in section 3.1, once migrated workers cannot simply be shuffled around or expelled according to market needs. Democratic and human rights commitments render the enforcement of returns or the prohibition of family reunion and settlement untenable, just as the neo-institutionalist migration control accounts indicate (chapter 2.1). I therefore posit that the social and politico-legal border-drawing dimensions are equally relevant for understanding labour migration policies: economic admissions are being regulated in a wider socio-political context, which has to be taken into account analytically.

This section discusses welfare regimes as main sites of social border-drawing. While the welfare state’s role in socio-economic inclusion of migrants is well researched, their impact on initial admissions is more of a poor cousin. Most studies focus on the comparative social stratification effects of welfare systems on migrants *after* they have entered the host country (Carmel, Cerami et al. 2011; Schierup, Hansen et al. 2006), or scrutinise the potential for erosion of welfare state support in increasingly multicultural societies (Alesina and Glaeser 2004; Kymlicka and Banting 2006). However, there is less attention in this body of comparative migration literature as to the role that welfare states play as border-drawing sites for the *initial selection* of migrant workers. Conceptualising the welfare state as “an ‘internal’ method for the regulation of migration (Geddes 2003a: 153), I argue that the social inclusion pathways designed in different welfare regimes are likely to be anticipated in labour admission policies. I go on to

offer a more general review of the relationship between migration and welfare and, based on welfare state theory, develop assumptions about social border-drawing and classification processes in labour admissions.

3.2.1 *Migration into Welfare States: A Policy Hub?*

The recent interest of migration scholars in comparative welfare state research acknowledges that welfare states “constitute key arenas within which issues of inclusion and exclusion are mediated” (Geddes 2000: 152). I contend that the welfare state angle achieves two things. Firstly, it illuminates a blind spot of political economy labour migration accounts by shifting the analytical focus from economic utility considerations towards social border-drawing mechanisms. Secondly, the social dimension of border-drawing at the site of national welfare states is particularly important for TCN newcomers who are excluded from the free movement and social rights portability agenda of the EU and who are not long-term residents with more encompassing rights yet (Geddes 2000). The seminal work of Hammar (1990) has shown that while many foreigners lack ‘formal’ citizenship rights in European host countries, they have often obtained ‘substantial’ citizenship rights, especially with regard to welfare entitlements. Hammar labels this status ‘denizenship’²⁹. A welfare state perspective hence captures vital internal border-drawing mechanisms below the level of formal citizenship, and sharpens the analytical focus with respect to the potential impact of denizenship and social inclusion pathways on border arrangements.

How does the literature depict the relationship between migration and welfare? Since over a decade, erosion and retrenchment of mature European welfare states in times of ‘austerity’ (Pierson 1998, 2001) has been discussed as a trigger for redefining the ‘community of legitimate welfare receivers’ with restrictive effects for migrants (Bommes and Geddes 2000a). Research highlights potential erosions of welfare state support in increasingly multicultural societies (Kymlicka and Banting 2006), and claims that welfare solidarity and generosity are weaker in contexts of increased ethnic heterogeneity and large-scale migration (Alesina and Glaeser 2004). Policy responses to the notably contentious relationship between welfare and migration include further exclusions of non-nationals or a general retreat from the solidarity community. Economists highlight the interest of native welfare state contributors to either lower their own tax burden, or to promote a higher skills equilibrium in the migrant labour force to increase their net contribution to welfare funding (Nannestad 2007). Processes of ‘racialised exclusion’ feature prominently in

²⁹ The EU Directive (CEU 2003a) on long-term residents is the first document to legally acknowledge and guarantee the relatively secure residence status of denizenship.

welfare state retrenchment (Schierup, Hansen et al. 2006); migration is “nested within more general debates about the future of welfare provision” and has thus become a major piece within the welfare state change jigsaw puzzle (Geddes 2000: 153). A restrictive social inclusion stance for migrants might equally trigger reconstitutions of welfare state models. For example, Scandinavian countries – often heralded as the Eldorado for social rights – have started redefining their universal rights regimes in an attempt to keep ‘unwanted’ migrants excluded from generous welfare provisions, hence forging a model of ‘neoliberal’ belonging (Sainsbury 2006; Schierup and Ålund 2011).

These accounts suggest that legislation in mature welfare state countries, in times of retrenchment and eroding welfare support, re-negotiates social inclusion pathways for migrants more generally. The concern over welfare is most obviously directed towards asylum seekers, foreign family members, migrants’ free movement and so on (Bloch and Schuster 2002; Peers 2001). Most studies interested in the migration-welfare-nexus focus on its implications for the resident population or later integration of migrants; there seems to be less interest in the role that welfare states play at the point of recruitment.

Yet, I argue that concern over welfare does not just impact the definition of social inclusion pathways for migrants within the country, but equally serves as important reference point in the structuration of initial admission routes. Geddes (2003a: 153) contends that “by providing access to, or exclusion from, welfare support, European states have sought to welcome some forms of migration while deterring others”. If we trust this judgement then a shift of analytical focus as to the migration-welfare-nexus is due. Rather than just stratifying migrant residents socio-economically, welfare states are likely to be equally employed as vehicles in initially classifying migrant workers in admissions.

Understanding welfare states as border-drawing site in the social dimension, as this thesis does, requires their analysis as potential policy hubs in interaction with other dimensions. From the CPE perspective developed in chapter 2, the analysis will have to expose how legislators selectively draw on – or disregard – the welfare state as a hub to achieve wider policy objectives vested in labour migration policy. Social border-drawing at the site of the welfare state implies categorisations of migrants as potentially beneficial or harmful for a country’s welfare system and/or economy. An analysis of classification principles in the light of welfare state regimes must hence enlighten the ways in which the variable normative frameworks that link work and welfare in different countries are used to structure labour admission policies. In interaction with the economic border-drawing dimension in particular, border-drawing on the site of the

welfare state can illuminate the political economy of welfare as integral part of the political ordering process in labour admission policies.

3.2.2 Welfare State Regimes

What does regime theory tell us about the potential character of the welfare state as border-drawing site then? The seminal work of Gøsta Esping-Andersen (1990) triggered now long-standing and persistently influential debates about the variable organisation and underpinning political objectives of social policy and welfare provision. For Esping-Andersen, the welfare state is not only “a mechanism that intervenes, and possibly corrects, the structure of inequality; it is, in its own right, a system of stratification. It is an active force in the ordering of social relations.” (ibid: 23) He introduces the concepts of decommodification and stratification to highlight the active and highly normative role of social policy in rendering individuals more or less independent from market income, and in diminishing or cementing inequalities based on class, gender and employment status. Welfare regime clusters then are an expression of the variable organisation and legal institutionalisation of state-market relations in different countries.

Welfare regime theory exposes fundamentally different logics of social stratification at the heart of the respective welfare state cluster (Arts and Gelissen 2002), as well as diverging norms and values underpinning social policy and social citizenship in different countries (van Oorschot, Opielka et al. 2008). The initial emergence of different organisational modes in social policy is not at the focus of analysis here. What is more important for the scrutiny of the current border regimes and classification principles in labour migration policy is an overview of differential welfare state logics and their likely implications for migrant workers' rights.

Table 3.2: Welfare State Regimes in the EU-15*

Regime Type**	Country (case)
Liberal-Residual (Anglo-Saxon)	UK, Ireland
Conservative-Corporatist (Continental)	Germany, France, Belgium, Austria, (Netherlands)
Social-Democratic (Scandinavian)	Sweden, Finland, Denmark
Mediterranean (Latin Rim)	Italy, Spain, Portugal, Greece

*without Luxembourg, **based on Esping-Andersen 1990, Leibfried 1993, and Ferrera 1996

In his distinction of worlds of welfare capitalism, Esping-Andersen traces three idealtypical regimes (table 3.2) characterised by their varying focus of decommodification and social stratification. Liberal welfare states offer residual welfare provisions, modest social insurance plans, and modest means-tested benefits. Strict entitlement rules and means-testing trigger low decommodification effects. Policies concentrate on the provision of a basic safety net and favour individual responsibility and the provision of income through the labour market. The welfare state is a 'compensator of last resort' here (Leibfried 1993: 127). Some have taken issue with the likeness of Liberal regime countries with regard to assumed low redistribution levels. Castles and Mitchell (1993) have argued that targeting through taxation or the transfer system in the UK and Australia, for instance, can imply lower post-transfer inequality levels than in the Netherlands (usually seen as a more egalitarian regime). Yet, the fundamental reliance on market income remains a shared feature of liberal welfare states.

Conservative-Corporatist welfare states provide social rights with reference to occupational statuses and link entitlements proportionally to contributions in a Bismarckian social insurance model. The welfare state is a 'compensator of first resort' (Leibfried 1993: 127). The relative preservation of previous income and status in case of unemployment, sickness or parental leave via relatively generous replacement rates bears modest decommodification effects depending on former income. However, indirect dependence on the market is maintained as benefit levels depend on prior employment (Palier 2010: 42). Eventually, status-based welfare provision and the replacement rate model marginalises redistribution effects and cements social inequalities.

Lastly, Social-Democratic welfare states promote universalism of social rights and target a "maximisation of capacities for individual independence" (Arts and Gelissen 2002: 142). They promote social equality on a high provision level beyond a minimum safety net and thereby offer high levels of decommodification and redistribution. This model "crowds out the market [...]" and constructs an essentially universal solidarity" among citizens (Esping-Andersen 1990: 28). It creates a strong role for the welfare state as public employer and promotes female labour market participation. Critiques later extended the typology to include a so-called Southern, Mediterranean or Latin Rim model (Bonoli 1997; Ferrera 1996; Leibfried 1993) which departs from the Conservative model mostly by its strong emphasis on familialistic welfare provision, clientelist politics and a large informal labour market. Later typologies included the Post-Communist Eastern European countries and East Asian economies as well (Arts and Gelissen 2002 offer a good overview).

As any typologisation welfare state regime theory triggered criticism as to the empirical validity of types (see Arts and Gelissen 2002). Hybrid models and structural changes to the types identified by Esping-Andersen more than twenty years ago have been suggested (e.g. Hinrichs 2010; Palier 2006; Weishaupt 2010). Moreover, common pressures such as demographic change, budget constraints, competitiveness politics, or de-industrialisation are believed to fuel convergence of different welfare states (a good overview of the convergence debate is offered by Starke, Obinger et al. 2008). However, recent studies of several indicators³⁰ have demonstrated that welfare states in Europe only display moderate convergence (O'Connor 2005; Scruggs and Allan 2006; Starke, Obinger et al. 2008). A recent in-depth scrutiny of welfare change trajectories in Continental Europe equally indicates that irrespective of incremental reforms there are “no instances of brutal departure from Bismarckian ways of thinking and doing” (Palier 2010c: 31). Pierson’s famous claim that “the core structures of most welfare states are not in jeopardy” (2001: 456) hence seems to remain valid. For the realm of labour migration policies the diverging logics of welfare provision, distribution and redistribution – from means-tested assistance, to flat-rate benefits, and contributory benefits – can be expected to continuously shape different pathways of inclusion for migrant workers. Welfare regime theory induced assumptions as to the social dimension of border-drawing hence offer a viable analytical benchmark for a comparative analysis of labour migration policy.

3.2.3 *Typological Assumptions about Social Border-Drawing*

I expect the above delineated welfare state logics and values to underpin the classification of migrant workers and the allocation of highly differential statuses and rights in the host country. Depending on the normative framework of different welfare states, migrants might acquire welfare entitlements either through labour market contribution in Conservative Bismarckian welfare states, or via their legal recognition as residents and tax payers in Social-democratic and Liberal welfare states. Equally, the level of entitlements varies according to the generosity and redistributive structure of the welfare state.

Analyses of migrants’ social integration have supported welfare regime theory. They have traced regime-typical migrant inclusion pathways, with Scandinavian universal social rights regimes being more integrative than Liberal or Conservative regimes (Morissens and Sainsbury 2005; Sainsbury 2006). Others have confirmed the contributory logic of Conservative welfare

³⁰ The studies cited use decommodification, replacement rates, social expenditure, welfare state generosity, or at-risk-of-poverty rates after social transfers.

systems for migrant inclusion: while the strong work orientation of the Bismarckian insurance model “appears to dovetail nicely with labour migration, enhancing the social rights of foreign workers [...] employment has been a central condition for a residence permit and the right to abode” (Sainsbury 2006: 234f). As Bismarckian welfare entitlements rest on labour market participation and associated contributions to the *Sozialkassen* or *Caisses Sociales*, stable employment has quasi automatically generated social rights such as old-age pensions and healthcare for labour migrants and their families (e.g. German guest-workers Bommes 2000). This picture differs considerably from Liberal-residual welfare states such as the UK, where “the easy access to the labour market indicated by high levels of participation in the labour force is accompanied by high exposure to old and new social risks in the flexible labour market” (Banting 2000: 41). Comparatively low social rights and minimum flat rate benefits which are more often than not detached from previous employment status set a continuous incentive to seek for income on the labour market.

Koopmans (2010) has further argued that both the Bismarckian and Liberal welfare regimes bear employment-incentivising functions: the former disciplines foreign workers to contribute for their own future entitlement record; the latter exposes them to rather extreme social hardness when unemployed. The generous Scandinavian welfare states with their emphasis on universal social citizenship have generally speaking generated greater levels of social inclusion (Morissens and Sainsbury 2005, Sainsbury 2006) but also less incentives for migrants to participate in the labour market due to the detachment of social rights and labour market position (Koopmans 2010).

In summary, there is vast empirical evidence for the claim that welfare states play a significant role in allocating social rights to migrant workers. I argue that the cross-nationally different social inclusion pathways with specific links between work and welfare rights are likely to be anticipated and negotiated in labour admission policies. The emerging puzzle for this thesis’ labour migration policy analysis is: how, if at all, does admission policy negotiate and selectively draw on the relationship between work and welfare in border-drawing?

Welfare state theory and empirical research in migrant inclusion patterns suggests, for example, that the labour market serves as a gateway to moderately generous benefits equivalent to contributions in Bismarckian welfare state. Policy is likely to regulate the initial access to employment tightly in countries such as Germany or France. ‘Quality’ employment with relatively high wages which seems stable and adds to social security funds is likely to be targeted, especially so since these countries also happen to fall into the CME category suggesting high and specific skill needs (see section 3.1). In case of the Mediterranean and Liberal welfare regimes,

the less generous welfare provision and detachment between employment and prospective benefits offers fewer grounds for tight enforcement of labour market borders or strict selectivity as to the ‘quality’ of the job. Scandinavian countries, lastly, have taken issue with migration and started to redefine generous universal social rights in a public atmosphere of welfare chauvinist backlashes (Schierup and Ålund 2011).

In anticipation of the statuses and social entitlements migrants obtain through their residence and work and the logics of this status acquisition in different welfare regimes, labour migration policy might introduce additional access requirements and safeguards against ‘misuse’ and welfare reliance, boost incentives for contribution, or use generous benefits to attract highly sought-after migrant workers while excluding others. From the engagement with welfare state regimes in this section, the comparative empirical analysis of the thesis is directed towards the following principles of social border-drawing³¹:

- equivalence between anticipated contributions through employment and social rights in Bismarckian regimes triggers tight regulation of labour market access, anticipated success in labour market integration pivotal for admission, ‘earned’ social integration in case of successful economic contribution
- logics of enforced (labour) market self-sufficiency and residual welfare in Liberal regimes; no strong link between labour market record and entitlements creates less incentive to regulate labour admissions tightly, tax-funding of benefits might trigger welfare chauvinism

In summary, the anticipation of 1) access to specific rights and 2) varying degrees of labour market success is expected to be crucial ingredient in admission policies’ classifications of migrant workers.

3.3 Comparing Politico-Legal Border-Drawing: The Site of Citizenship Regimes

Citizenship has long been the defining category for border construction in migration policies. The ‘invention of the passport’ nourished ever more elaborate distinctions of citizens and non-citizens in Europe since the Napoleonic era (Torpey 2000). In a Weberian reading (chapter 2) these legal distinctions have been essential for defining “mutually exclusive sovereign states” (Joppke 2005b). It is hence not surprising that migration scholars have taken pains to compare modes of formal passport inclusion for migrants in different countries, and that the focus on politico-legal

³¹ For reasons of brevity I neglect the detailed discussion of Social-Democratic and Mediterranean welfare state regimes here, as these types will figure in the comparative analysis.

inclusion is one of the oldest in comparative migration research (Brubaker 1989, 1992; Favell 2001; Howard 2009; Joppke 1998c, 2005b, 2010; Koopmans, Statham et al. 2005). These studies examine the conditions under which migrants can acquire permanent residence and, predominantly, citizenship status in different countries.

Certainly, citizenship is often a late step in a longer integration process for migrant workers, reaching from physical entry (migration) over settlement and denizenship (integration) to eventual naturalisation (Hammar 1990). The acquisition of formal citizenship and the host country's passport opens access to political rights such as non-expulsion, protection by that state, and voting rights in national elections for a former migrant. The citizenship regime literature might seem like a far-fetched focus for the analysis of labour admission policies. Indeed, labour recruitment is unlikely to focus on the later naturalisation of workers and might focus on their economic utility and medium term socio-economic inclusion prospects instead, as the previous two sections suggested. The experiences of the guest-worker era have, however, demonstrated that initial worker recruitment can lead to large-scale settlement and eventually naturalisation (Castles 1986; Rogers 1985). This dynamic has increased governments' awareness of the human face of 'economic' migration in terms of citizenship and integration trajectories beyond the labour market. I therefore argue that formal integration pathways can be expected to form a regulatory normative backdrop for economic and social border-drawing processes also with regard to labour admissions.

A third dimension of border-drawing, politico-legal of nature, hence enters the analytical terrain with regard to labour migration policy. As naturalisation and settlement laws strongly direct longer term migrant integration pathways, I expect the associated citizenship trajectories to be anticipated in admission legislation and to significantly inform border-drawing. The closer scrutiny of citizenship and integration accounts thus promises significant insights in the underpinning principles and meanings of politico-legal border-drawing. This section reviews these accounts in comparative perspective and develops assumptions about potential border-drawing dynamics on that basis.

3.3.1 *Citizenship and Integration Regimes*

Migration scholars who study migration through the lens of citizenship and formal integration modes, mostly scrutinise the regulation of nationality and naturalisation laws and the underpinning philosophies of 'nation', 'citizenship' and 'integration'. Citizenship and integration theories overall feature a dual focus on a) a historically established migration policy path linked to

concrete migration experiences and historical recruitment strategies, but also more abstract ‘philosophies of integration’ (Favell 2001); and b) currently adopted practices, institutions and mechanisms of incorporating migrants into the host country, and the links of these practices to the historical constellations. The main distinction of incorporation regimes has been between ‘civic’ vs. ‘ethnic’ models of citizenship: in the former, the classification of citizens and aliens runs alongside political belonging usually related to birthright or ‘jus solis’. In the latter, ethnicity or consanguinity forms the division line, often related to descent and ‘jus sanguinis’. France, the Netherlands and the UK in Europe, but also the settler countries in Northern America and Australia serves as examples of the civic type, whereas Austria, Germany or Italy traditionally represent ethnic models of citizenship. Especially the theoretical contrast of France and Germany as prototypes in their respective category – famously introduced in Brubaker’s historical account of citizenship regimes – continuously carries analytical weight, even though it has been criticised for overdrawing and stereotyping empirical phenomena (Brubaker 1992; Joppke 2010).

Table 3.3: Historical Citizenship Regimes and Recent Changes in EU-15

Historical civic citizenship (colonial ‘haves’)	Historical ethnic citizenship (colonial have-beens and have-nots)	Recent Regime Changes
	Austria, Denmark, Greece, Italy, Spain (pan-ethnic approaches in post-colonial Spain)	Restrictive continuity
(late democratisation moved case closer to more restrictive policies until 1980s) Netherlands	Finland, Germany*, Luxembourg, Portugal, Sweden (pan-ethnic approaches in post-colonial Portugal)	Liberalising change
Belgium, France, Ireland, UK (assimilation approach in France)		Historically liberal

Sources: Howard 2009; also Brubaker 1992 and Joppke 2005

*Howard (2009: 119ff) assumes a ‘restrictive backlash’ in German liberalising tendencies due to the restrictions of a much more liberal citizenship package proposed by the social democrat/Green government in 2001 in the negotiations with the conservative opposition in the upper chamber of parliament

Accounts for the civic/ethnic divide have been historically embedded (table 3.3)³². Howard (2009) argues that the colonial experience has promoted formal inclusion of foreign nationals, as it allowed an exchange of populations across territorial boundaries. Additionally, early democratisation in the 19th century provoked established legal principles of inclusion and

³² Howard (2009) also indicates recent regime changes based on liberalisation tendencies (such as introduction of *jus solis* elements, non-ethnic naturalisation practices or dual citizenship). Simultaneously, post-colonial civic citizenship models have been increasingly restricted in the past in some countries. The case reviews in chapter 5 will take account of policy legacies and recent developments in Germany, France and the UK in more detail.

universal rights and “enabled the establishment of a civic concept of inclusion” (ibid: 43). Eventually, both France and the UK count as colonial powers with an early onset of democratisation and have thus developed a ‘historically liberal’ approach to migrant incorporation and citizenship. In the opposite corner of the matrix we find countries that have neither been big colonial powers nor early democracies such as Germany or Austria. They are characterised by their restrictive³³ and ethnically biased citizenship policies. In the absence of strong colonial bonds, these countries neither had pressing experience population exchanges, nor did legal principles of a liberal democracy force them to expand rights beyond ethnic bonds to foreign residents. Another explanatory variable for the emergence of ethnic citizenship models is the historical importance of Diasporas. Joppke (2005) shows how migration and citizenship regulations in Germany and Israel have concentrated on the creation of an imagined national community to overcome geographical fragmentation. Citizens are connected through common descent, history, linguistic features or a shared religion, rather than their presence in a common political community, as opposed to the civic model.

Civic citizenship models emerged in a similar context of early post-colonial democracies, but have taken different pathways subsequently. Citizenship scholars divide post-colonial regimes further into multicultural citizenship models (the UK and the Netherlands) and assimilation regimes (mainly France) (cp. Bonifazi 2000; Brubaker 1989, 1992; Castles 1995; Freeman 1995). Favell (2001) argues that despite their similar colonial past, demographic situation and economic development in the post-war era, Britain and France developed quite different and distinct liberal public philosophies of integration. He demonstrates that French policy-makers have embraced a myth of Republican shared political identity which forged a participatory and assimilationist citizenship model. Quite contrary to this, the British approach has tolerated and supported cultural and ethnic differences which aimed to sustain ‘moral public order’ and social cohesion through a consensus around ‘good’ race relations and multiculturalism.

Despite a common concentration on facilitating naturalisation practices for longer term residents, both approaches have been associated with a different set of policies to facilitate the integration of ethnic minorities and migrants. In the case of assimilation, a shared national identity created by a common civic citizenship is the normative and deontological goal of policy-making. While the overcoming of group differences is focused with assimilation, group identity is actively preserved and protected in multiculturalist regimes (Favell 2001; Kymlicka and Banting 2006;

³³ For Howard, restrictiveness is characterised by tough naturalisation requirements, the absence of dual citizenship options and the equal absence of *jus solis* elements in the acquisition of nationality (2009: 27).

Miller 2006). Both integration approaches have emerged as attempts to deal with ethnic diversity in two globally integrating colonial empires, but through their codification in public law they have, regardless of incremental policy changes³⁴ – acquired the status of institutionalised reference points subsequently.

In contrast to multicultural and assimilationist post-colonial regimes and their easier naturalisation processes, historical guest-worker countries such as Germany or Austria have more often followed patterns of ethnic belonging and excluded migrant workers from politico-formal integration. That means that migrants who entered the country as workers since the 1950s have not been treated as potential new citizens and often remained legal foreigners even in the second and third generation. At the same time starting migrations of the historical Diaspora of ethnic Germans, for instance, were welcomed as citizens in Germany (Green 2004). This approach of simultaneous ethnic inclusion and differential exclusion of foreigners has been interpreted as an attempt to combine and hold together identities of geographically dispersed ethnicities, historically promoted in the context of territorial border re-demarcations in the various wars in Europe in the 19th and 20th century (Joppke 2005).

Lastly, Mediterranean and East-European countries are usually perceived as migration ‘newcomers’ or emerging systems that are still in search of a migration regime and are hence perceived as rather ‘uncontrolled’ (Boswell 2007). While ‘uncontrolled’ might speak to the perception of somewhat chaotic contemporary admission and regularisation practices for workers in Italy, Greece or Spain, this label is not adequate for these countries’ integration models. Italy follows a similar ethnically defined pattern as Germany historically, and grants passports to Italian descendants and their family members in Argentina for example. Spain or Portugal experienced early migration movements across their colonial empires and have equally early on developed privileged admission schemes for post-colonial migrants mostly from Latin America. The early collapse of their empires was tried to counterbalance with pan-ethnic approaches to sustain Hispanic or Lusophone bonds across the world (Joppke 2005b).

Lastly, the EU citizenship and free movement agendas add another contextual layer to the above-delineated accounts. Free movement of labour across the Union is at the heart of the European common market project and “one of the most immediately visible and highly valued of the rights of persons living in the EU” (Baldaccini and Toner 2007: 6). Based on the further

³⁴ Recent changes have softened the sharp division between assimilation and multiculturalism. France has seen the introduction of multiculturalist policy tools to recognise group identities, while language tests requirements for naturalisation or obligatory language courses introduced elements of assimilation in Britain and the Netherlands, for example (Brubaker 2001; Koopmans, Statham et al. 2005; Kymlicka and Banting 2006).

development of free movement into an 'EU citizenship' approach with the Maastricht Treaty, EU-nationals today are theoretically not subject to domestic migration policies within the Union. They are treated as 'quasi-citizens' who execute their right of free movement between member states (Guild 2007). Certainly, there are limitations to an encompassing citizenship on the EU level: entries of workers from the A8 countries (acceded in 2004) and the A2 countries (Bulgaria and Romania acceded in 2007) are or have been restricted. It is further unclear, under which conditions EU-nationals can be expelled from another member state, and whether family members automatically also count as EU citizens (Guild 2007). Yet, the point to highlight in this context is that the preferential treatment of EU-nationals – even if to varying degrees between old member state nationals and individuals from recent accession countries – is likely to have implications for border-drawing towards TCN workers. The legal obligation to admit certain nationals – co-Europeans – on equal or almost equal terms to the domestic labour market will potentially restrict entry options for workers from outside the EU.

3.3.2 *Typological Assumptions about Politico-Legal Border-Drawing*

How do citizenship and integration regimes illuminate politico-legal border-drawing activities in labour migration management, what classification principles do they potentially inform? The literature review above has shown that conditions for formal passport inclusion vary from ethno-cultural *jus sanguinis* models to territorial-based or civic *ius solis* models, even though the sharp distinction between the models is empirically superseded and elements of both can be found in any country today (Joppke 2010). I argued that while labour recruitment might not predominantly focus on later naturalisation of workers, the backdrop of formal integration pathways might nonetheless contextualise economic selection processes at first entry. Indeed, the liberalness of a country's citizenship regime as a looming logic of integration and settlement might have direct consequences for border-drawing at first entry. For example, Britain displays one of the strictest entry regimes and toughest border controls in Europe, but this restrictive framework has been understood by policy-makers as the very precondition for good race relations, social cohesion and a relatively liberal citizenship regime (Favell 2001). French assimilation targets could bear similar restrictive entry effects in a conflation of border-drawing based on economic utility with assimilation concerns.

Even though predominantly relating to the allocation of passports ethnic, civic or EU communitarian citizenship principles are likely to provoke direct repercussions in admission policies. Privileged labour market access offered to ethnic German migrants who count as

citizens might, for example, seriously restrict entry routes for others. By contrast, civic principles of migrant inclusion in the UK and France might render any attempt to select workers by their origin implausible or indeed unlawful. At the same time, research shows that post-colonial links have triggered special labour geographies. For example, France filled labour market shortages in the post-war era with Francophone post-colonial migrants (Joppke 2005b), and the UK has equally experienced – and partly promoted – work inflows from its former colonies (Schain 2008; Solano and Rafferty 2007).

A similar trade-off between recruiting a privileged group of migrant workers and restricting entry for others can be expected with regard to EU free movement. The encompassing labour mobility granted to EU-nationals forms a highly significant politico-legal classification between EU and non-EU workers which might trigger restrictive border-drawing effects for the latter. Comparative migration scholarship so far neglects this link, which I expect to shape classification regimes. Consequently, even though this thesis concentrates on the regulation of TCN admissions, it considers the definition of privileged entry routes for ethnic Germans, post-colonial co-citizens, and EU free movers as important intervening factor which directly shapes the specification of borders for ‘other’ TCN workers. Potential trade-offs between migrations of different legal status represent another motive to make the politico-formal border-drawing site of citizenship regimes a fundamental part of this thesis’ analysis.

Moreover, the ‘unintended consequences’ of the guest-worker period discussed earlier made governments wary of repeating these experiences (Castles 1986, 2006; Cornelius and Tsuda 2004; Rogers 1985). Confronted with the potential automatism of settlement, they might be more cautious when admitting people in the first place, fearful of not being able to closely monitor or expel the ghosts that they summoned afterwards, literally speaking. Several countries have introduced circular migration routes as an attempt to prevent settlement, naturalisation and access to long-term resident status; a trend which economic cooperation organisations support (CEC 2005; OECD 2009). Similar restrictive tendencies could invert liberal post-colonial citizenship regimes in attempts to cut back certain migrations and post-imperial relationships. While the post-colonial character of migrant flows can act as a privilege, it could also be of disadvantage for the respective workers. But apart from looking into restrictive options, countries might equally seize a beneficial citizenship regime selectively to attract particularly well sought-after workers. Just as with welfare state frameworks, I argue that citizenship and integration pathways are likely to be anticipated, negotiated and selectively drawn on in labour migration management – according to the intended liberal or restrictive policy objectives with regard to a specific group of migrant workers.

The above reflections contend that classification by origin – with links to Diaspora migration, post-colonial geographies, guest-worker experiences, or EU free movement – does not only shape citizenship acquisition processes per se, but is likely to inform labour migration classifications as well. From the engagement with the site of citizenship and integration regimes in this section, the comparative empirical analysis of the thesis is directed towards the following principles of politico-formal border-drawing:

- focus on ethnicity in ethnic citizenship regimes or post-colonial origin of migrant workers in former imperial countries implies trade-offs with other TCN labour admissions
- logics of EU citizen-free movement implies – most likely restrictive – trade-offs with other TCN labour admissions
- social cohesion and public order focus in multiculturalist integration models and assimilation focus inform specific anticipations as to migrant workers' integration pathways
- 'lessons learned' from 'unintended consequences' of guest-worker recruitment in post-War era fuel detailed anticipation and steering of settlement pathways in legislation

What emerges from this listing of potential border-drawing logics in the politico-legal realm more generally is the presumption that the rather short-term rationalities of economic gains described in the economic dimension of border-drawing or the medium term social inclusion pathways anticipated in the social dimension are likely to interact with classification picture that depicts overarching patterns of belonging. The main assumption contended here is that, even where politico-formal border-drawing at the site of citizenship regimes does not target incoming migrant workers directly, the specific patterns of politico-legal inclusion of competing groups of migrants, such as EU free movers, in different countries will entail classification effects for other TCN workers.

With the comparative view on the politico-legal dimension of border-drawing we have seemingly drifted away from the initial perspective on labour migration as an economic growth strategy. Yet, when leaving the territories of mono-dimensional analyses of migration a broader view immediately captures interactions between border-drawing dimensions. Indeed, an increasing branch of comparative citizenship literature posits that citizenship models have been reconstituted in the light of wider economic agendas described in section 3.1. Scholars have empirically traced trajectories of contractualisation in integration and naturalisation practices across Europe and across regime types. They highlight the contemporary need to 'earn' one's citizenship or secure resident status. Kiwan's (2010: 334) study of legislation on high-skilled

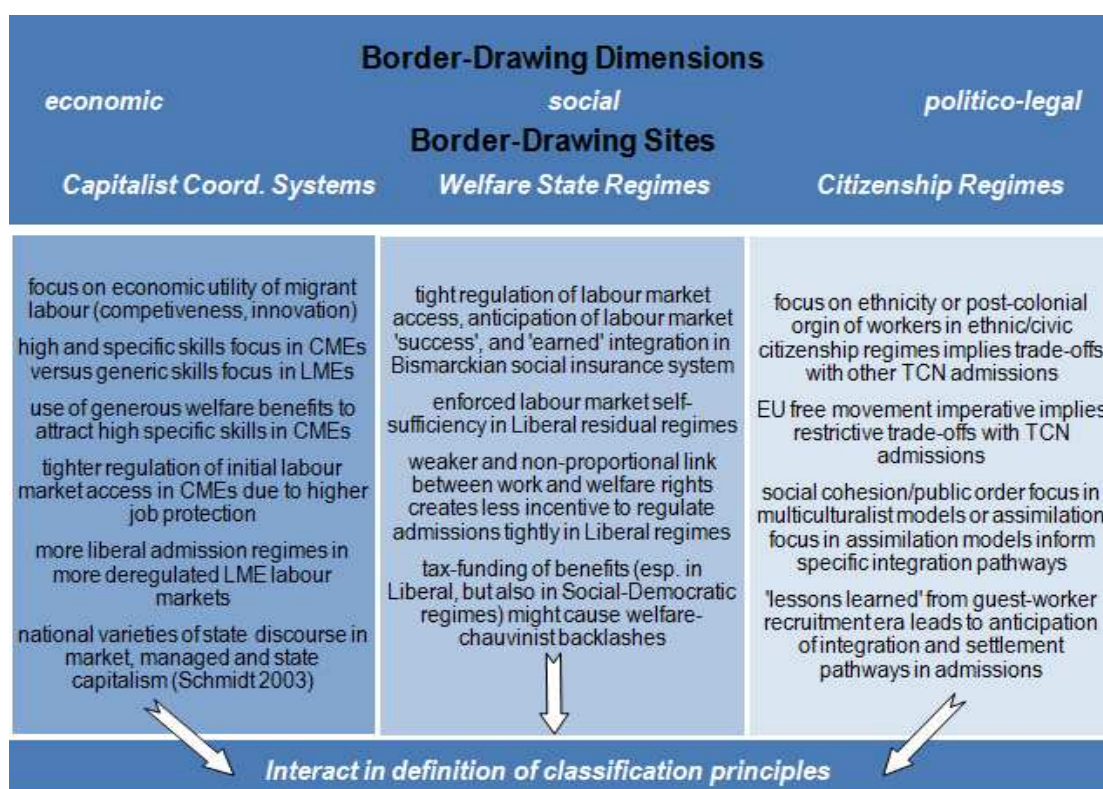
workers in the UK, for instance, shows that “a ‘moral’ conception of citizenship is invoked in the notion of a ‘good’ citizen predicated on primarily economic grounds”. Trajectories like these speak of the intersectionality of citizenship and integration regimes with economic coordination processes in capitalist states.

While the sole economic perspective on labour migration has been critiqued from a Polanyian perspective earlier, we can now close the critical circle and highlight the shortcomings of perceiving citizenship as a solely politico-legal border-drawing site. Interactions between welfare retrenchment, economic downturns and budget constraints, and ethnised social exclusions have pointed to the multidimensionality of migration policy from the perspective of the welfare state (Schierup, Hansen et al. 2006). The welfare state perspective has equally indicated, that politico-formal exclusion of migrant workers in Germany’s ethnic belonging model, for example, went hand in hand with their relatively straightforward social inclusion sparked off by their labour market contribution and resulting ‘earned’ entitlements in the Bismarckian welfare state (Bommes 2000; Kaiser and Paul 2011). Ultimately, while recognising the contributions of individual regime theories to understanding dimensions of border-drawing, this thesis highlights the need for a multidimensional comparative analysis of border-drawing.

3.4 Conclusion: Towards a Multidimensional Analysis of Border-Drawing

This chapter has reviewed comparative migration studies and identified an economic, social, and politico-legal dimension of border-drawing. Studies usually draw on one of the regime literatures on capitalist coordination systems, welfare states, or citizenship models to account for the respective dimensions. On that basis, I developed theoretical benchmarks for the comparative analysis of labour migration border-drawing in form of assumptions about potential normative inscriptions policy-makers vest in migrant classifications in each dimension (figure 3.4).

Figure 3.4: Hypothetical Classification Principles Across Border-Drawing Dimensions



Source: author's compilation of reflections in this chapter

I argued that the focus in most comparative migration research on one specific dimension obstructs the view on the extent to which labour migration management is being shaped across multiple dimensions and sites. The critical allusions to the social embeddedness of markets, links between welfare and economic coordination in the VoC literature, or 'earned' citizenship pathways offered in the review above jointly highlight the multidimensional character of the policy field. I expect the specific interaction dynamics between individual dimensions of border-drawing to determine migrants' admission and inclusion patterns in different host countries, and hence to

explain similarities and differences in labour migration management. I will therefore conduct a multidimensional analysis of border-drawing to answer this thesis' research question.

These reflections reiterate the perspective on border-drawing as a selective arrangement developed in chapter 2. From this view, the interplay of diverse border-drawing sites and their respective normative frameworks does not occur in a self-assorting or accumulative manner, with regime logics just adding up and forming a logical classification principle. Rather, this interplay is selectively arranged and constituted in statutory labour admission regulation depending on the very purposes inscribed in legal classifications. Admission laws might emphasise one border-drawing dimension more than another, neglect or override specific logics, and combine dimensions and selected norms in a certain way to guide the classification of migrant workers. The subsequent empirical analysis of border-drawing across its economic, social and politico-legal dimension is hence charged with exposing interaction dynamics, informing a discussion about the relative weight of the respective dimension and site in labour migration management, assessing the extent to which interacting logics can explain cross-national similarities and differences in border-drawing, and appraising the political ordering effects for migrant workers.

These reflections forge an ultimate specification of the thesis' research agenda with an empirical focus on border-drawing sites as sources of the normative underpinnings of legal classifications in the third research sub-question:

- R3: What roles do the economic, social and politico-legal dimensions and sites of border-drawing play in a classification regime?

In the light of the assumed structural embeddedness and constitutive power of classifications (chapter 2) the *structuring* impact of border-drawing sites and their normative frameworks must be considered; but the analysis must equally be attentive to restructurations of these sites through labour migration legislation. The latter focus will facilitate a more general critical engagement with the trajectories of citizenship, welfare states and the capitalist economy, through the prism of labour migration management in comparative perspective (chapter 9).

The analytical focus on multidimensional border-drawing processes in labour migration policy and their reference to nationally variable economies, welfare states, and citizenship models informs the comparative analytical strategy of this thesis and provides theoretical grounds for case selection, the subsequent methodology chapter outlining the comparative research design.

4 Methodology: Designing A Comparative Interpretive Policy Analysis

The previous chapters have engaged in a conceptual debate which defined migration policy as statutory border-drawing and specified the analytical benchmarks of this comparative research in terms of empirical border-drawing dimensions and sites. In order to access the empirical field and enable answers to this thesis' research question, this chapter sets out a methodological approach. First, I will found the constructivist-interpretivist ontology and epistemology of this research which builds on the conceptualisation work of chapter 2. Secondly, I propose a specific comparative method: a small-n case-sensitive comparison that draws on idealtypical assumptions about border-drawing sites and their interaction in labour migration policy as theoretical benchmarks. Thirdly, case selection of Germany, France and the UK is justified on the basis of theoretical and methodological considerations. I lastly lay out the analytical perspective and methodical approach of this research and elaborate the specific application of an interpretive policy analysis in this thesis. Choice justifications at each step of the research design – from operationalisation to comparative method and data analysis – are accompanied by reflections on their limitations.

4.1 Ontology, Epistemology and Explanation Strategy

The thesis has so far introduced an interpretive reading of migration policy that focuses on meanings and normative frameworks that underpin border-drawing. It defined migrant classifications, their meanings and normative reference points at border-drawing sites as related objects of analysis. The central role and constitutive power ascribed to semiosis in classification processes implies important ontological and epistemological commitments which feed into a specific comparative and analytical strategy.

4.1.1 *Constructivist-interpretivist Ontology and Epistemology*

The interest in meanings of border-drawing entails constructivist ontological and interpretivist epistemological commitments. Rather than assuming that reality can be studied and explained objectively like in positivist stances, the constructivist-interpretivist tradition puts an emphasis on understanding the world through an examination of the interpretation – and thereby construction – of that world by its participants (Bryman 2008: 385). "It is an approach that sees concepts and categories as embodying the point of view of their creators." (Yanow 2006: 6) Border-drawing in labour migration policy, it has been argued, entail specific calculations and construals of the

social world. Legislation includes policy-makers' selective interpretations about how to classify migrant workers and according to which normative frameworks.

The critical engagement with CPE and Bourdieu's work has highlighted that interpretivism does not necessarily deny *material* implications of socially constructed borders. The decision by a state not to admit a certain applicant might be a construct ontologically, but it is likely to have real effects as to the limits of movement, need to go 'underground', lack of access to a labour market, lack of access to social protection for the affected migrant worker. That means that, even though, ontologically, the social world is perceived as constructed through powerful interpretations in this thesis, I argue that border-drawing processes, their interaction with border-drawing sites and their effects as to the allocation of specific statuses to migrant workers can usefully be studied from an interpretivist epistemological viewpoint. Section 4.3 will propose a related comparative research design and section 4.4 indicate details of data access and analysis in an interpretive perspective.

4.1.2 Truth Claims: Contextualised and Constitutive Explanations

If it is epistemologically possible to study the meanings and implications of socially constructed borders, then what and how can we know about them? Some important features of interpretive research strategies have already been discussed in chapter 2, but a specification of explanatory approaches in this philosophical camp is required to measure the scope for this thesis' claims. This mainly considers the dynamism and volatility of interpretations, the use of constitutive explanatory strategies, the generation of contextual 'truths' in interpretive research, and the role of 'hypotheses' in abductive reasoning.

Interpretivists contest the Durkheimian notion of *permanent* and *a-historical* causes and laws that can be 'discovered' in variable correlations of the social world. Interpretivists do not aim at making universal statements about the effects of socially constructed divisions and reject notions of permanence. If ontology focuses on perceptions and constructions of the social world it has to acknowledge the multiplicity, dynamism, as well as contextual and structural contingency of perceptions. What might seem a valid mechanism to classify labour migrants in a country today might seem irrelevant, undesirable, or unlawful tomorrow according to shifting norms, circumstances, power relations and so on. Policies and their respective normative substance change, swiftly at times, so what we can know and explain about them has to be *situated* in their very specific context, i.e. setting, space and time (more on the role of interpretive plurality in van Dijk 1997; Yanow 2000).

How can the interpretivist researcher know and explain, if perceptions are dynamic, complex, multiple and contextual? Departing from causality claims interpretive research focuses on the emergence of configurations (Heritier 2008; Wendt 1998; Yanow 2006). Interpretivist social sciences seek to offer constitutive explanations, by *reconstructing* the scenery of what has happened, what has been said and written, in which context structures and symbolic divisions emerged, what links there are between processes, structures and meanings. The emphasis is on understanding relationships as constitutive of a formation in its context, rather than on inferring causal links. This explanatory approach takes on board some fundamental CPE claims from chapter 2; particularly with regard to the selective arrangement of meanings and structures and their explanatory role as to the emergence of a particular social formation. In this research, the constitutive explanation focuses on the emergence of particular *classification regimes*. Their emergence is explained with respect to the border-drawing dimensions and sites and their respective normative frameworks that policy-makers draw on when arranging labour migration policy in a specific way. Interpretive research hence generates an understanding of small contextualised truths rather than big generisable truths (Price and Reus-Smit 1998). The contextual embeddedness of empirical 'truth' claims and theorisation is central to interpretivist research designs (Lincoln and Guba 2000). I pay tribute to the role of context in constitutive explanations by including a detailed case profiling for each country in chapter 5 and hence render it part of the analysis.

In a constitutive explanation strategy, hypotheses about relationships and processes in the social world are not 'tested' in the strict positivist sense. Interpretivist research usually applies *abductive* reasoning in the tradition of Charles Peirce. Starting from a puzzle, the researcher engages in an iterative theoretical and empirical scrutiny of the field trying to make sense of the puzzle by abducting and then 'testing' various explanatory presumptions to single out the most suitable ones (Yanow 2000, 2007). Hypotheses, or rather presumptions in interpretivism, serve as initial ideas of what might explain the puzzle, but as there can be a range of different explanatory factors, they have to be refined in an iterative sense-making process throughout research. Theoretical presumptions discern potential contextual influences, dynamics which might prove relevant for the emergence of a certain configuration, and negligible factors and circumstances. In this study, the puzzle concerns the fine-tuned, often contradictory, and cross-nationally variable character of labour migration policy which both the introduction and chapter 3 have highlighted. The theoretical engagement with regime literatures has created grounds for designing initial presumptions to make sense of the way in which states 'manage' migration. Their relevance for the meanings of migrant classifications is tested, specified and critically assessed in data analysis.

The ontological and epistemological reflections in this section set the parameters for this study's research design. The focus on policy meanings in an interpretivist approach determines processes of data access and analysis, chiefly dictating qualitative methods (section 4.4). The understanding of configurations as volatile and emergent in a specific context require the thesis to not only delineate policy context but to render it part of the analysis. The next section demarcates a rough context for case selection, while chapter 5 will offer in-depth case profiling including countries' specific position in regime theory and the distinct labour geographies into which migrant workers are admitted and sorted. Lastly, the use of various – and potentially also rival – theoretical assumptions on a journey towards a small contextualised truth about border-drawing regimes informs a specific comparative method, to be developed section 4.3.

4.2 Comparative Research Design and Demarcation of Context

The focus of this research – border-drawing regimes and constitutive explanations as to the emergence of their specific configuration – bears implications for the comparative research design. The importance of context and prior knowledge for systematic interpretive analysis informs later case selection. I propose a small-n, case-oriented comparison which focuses on one area (the EU) and takes into account its multiple levels of governance as case context. Even though only studying three countries in-depth, their large distribution in terms of idealtypical border-drawing sites enables this thesis to explore a relatively wide range of dynamics between economic, social and politico-legal border-drawing.

4.2.1 *A Small-n, Ideographic, Case-oriented Study*

The aim of comparisons is determined by ontological and epistemological propositions. Landman (2008) lists contextual description, classification, hypothesis testing, prediction, and theory building as comparative research endeavours. Interpretivists apply a different meaning of 'hypotheses' and 'prediction' than positivists, aiming to offer contextualised constitutive explanations. The comparative focus is not on rules and laws that apply across cases, and can be used for prediction, but on patterns of labour migration border-drawing that can be understood in relation to similar and diverging contexts and normative reference points of the policy configuration.

I propose that an ideographic comparative strategy concentrating on a small number of cases is best suited to answer the research questions posed in this thesis and the interpretivist

stance associated with them. The research focus lays on explaining cases of border-drawing in their complex institutional contexts. Small-n studies offer the required room for the scrutiny of configurations beyond dichotomous variables and thereby accommodate configurational analyses within cases. They are “better suited to take into account historical and political contingency of macro-social units” (Ebbinghaus 2005: 149) such as the political economies, welfare states, and citizenship regimes and their work as border-drawing sites in the empirical field of labour migration. Moreover, ideographic comparisons appear to be “more faithful to the rich concepts that inspire our theories and [...] more sensitive to the complex and conditional causal relationships and intertwined levels of analysis that most closely approximate our intuitive understanding of how the political world really works.” (Coppedge 2006: 105). The concept of border-drawing, I argue, represents a ‘rich’ concept – especially with the focus on its multidimensional character and various normative reference points – which cannot usefully be forced into the straitjacket of dichotomous variables.

Comparisons imply trade-offs between the number of cases studied and the depth of analysis of any single case (Hantrais 1999), as well as between legitimacy of generalisation of results and in-depth understanding of cases and concepts. The methodological decision of this thesis to carry out a small-n ideographic study hence carries substantial limitations traded off with advantages of this decision. Most importantly, the interest in understanding cases in-depth and explaining the constitution of phenomena in their contexts cannot infer causal links between empirical events and data, and cannot generalise findings beyond the scope of contextualised case-sensitive explanations. Positivist criticism has it that “thick concepts and theories are unwieldy in generalizing or rigorously testing complex hypotheses” (Coppedge 2006: 94). However, the case-sensitive application of thick concepts cannot only generate in-depth understanding of the meanings and constitutive moments of social formations, but can also advance theory building. Small-n studies offer scope to theorise about “robust explanations of similarities and differences of social phenomena and assess consequences” (Hantrais 1999: 93). This thesis embraces theory-building aims: By studying migrant classifications as instances of structurally embedded border-drawing, I aim to assess overarching patterns in the way policy-makers order relationships with regard to labour migration. The ideographic study proposed here, I argue, offers a viable pathway towards this kind of comparative theorisation.

4.2.2 A Case-Sensitive Area Study

I concentrate on an area study of some member states of the European Union (area) whose regulatory activity is understood as part of each case (case sensitivity). The complex multi-level and multi-layer setting in which migration policy is made in Europe does not only constitute a particularly interesting one, but the large scope of migration movements to the rich spheres of the EU also renders it politically and demographically relevant. The common contextualisation within the institutional and normative setting of the EU “confers on them [cases] a certain identity of purpose through the common goals to which they subscribe as a condition of membership” (Hantrais 1999: 98).

The analysis moreover concentrates on EU-15 countries for pragmatic and socio-demographic reasons. Unlike newer accession countries, the EU-15 have co-experienced the progress in common migration policy-making since the Treaty of Amsterdam established a supranational competency in 1997. Those countries have thus shared a common ground of regulatory incentives and policy debates for more than the last decade which should consequently allow for a fruitful comparison. Demographically, the EU-15 has experienced substantial labour migration flows since the post-war era (Northern and Continental Europe) or at least since the mid 1970s (Southern Europe). Research-wise it is hence easier to access longitudinal data and rich pools of legal documents in the older EU member states with their long-standing foreign worker inflows.

EU-15 countries experience similar levels of migration, similar ‘pressure’ scenarios, have developed similar response strategies and might draw on some similar normative scripts. Rather than seeing the policy interdependency within the area as a problem for analysis of desirably ‘pure’ cases (Anckar 2007), I argue that the importance of context familiarity and contextualised constitutive explanations in interpretive analysis requires a clear demarcation of context. The regulatory environment of the EU and a further limitation of case selection to the EU-15 offer a useful analytical demarcation line. Equally importantly, it is a context that I am well familiar with as EU citizen, active free mover, and scholar. This familiarity and prior knowledge is crucial for a well informed interpretive analysis (see section 4.4 on the role of prior knowledge in IPA and the role of the researcher in data access and analysis).

How to best incorporate the EU in comparative analysis then? Academics have tried to capture the multi-level policy-making setting and co-existence of domestication and Europeanisation processes conceptually as well as comparatively in analysis (Featherstone and Radaelli 2003; Hooghe and Marks 2001). Yet, these approaches often focus solely on the operational dimension of governance understood as coordination methods (Carmel and

Papadopoulos 2003). They often neglect the analysis of substance and meanings so crucial for interpretive policy analysis (chapter 2). I also take issue with approaches that perceive national cases as 'nested' within the regulatory and policy-making framework of the EU (Kohler-Koch 2003b) – as that would suggest a domination of domestic policy-making by the EU.

Instead, I argue that each case interacts with EU level regulation in its very specific and particular manner, incorporates and shapes the normative scripts and structures of EU policy-making according to the underpinning national normative scripts and structures (for a Janus-faced analytical approach see Ebbinghaus 2006; on the role of European ideas and their incorporation in policy-making see McCormick 2010). With a view on the strategic governance approach discussed in section 2.3, but also referring to Guiraudon's (2000) notion of venue-shopping from section 2.1, we can assume that member states draw on the EU regulatory framework selectively to achieve their policy goals and normative aims. Through nationally distinct policy interactions and interpretations of what the EU is and what it means with regard to migration policy, the EU becomes part of each case, rather than constituting a common objective framework of policy-making across cases. The EU and member states are then complexly nested within each other, and nesting can take different shapes for different policy areas. For example, the common frameworks of 'managed migration', free movement of workers, LTR residence and growth-driven market-making will most likely lead to different legislative engagements and interpretations of Europe in different countries. This does not just concern the opting-out of some member states of EU regulations (often the case of the UK in migration issues); it highlights the variable and selective ascription of meaning to the EU in national border-drawing contexts.

The case-sensitive area study of EU member states proposed in this thesis accommodates both the common context of legal framework and governance structure on the EU level *and* nationally distinct case features and their interaction with the EU. It acknowledges mutual interdependencies and the joint productions of policies, but attributes room for manoeuvre to the national level. In anticipation of this methodological proposition, the previous chapter has already considered of the role of EU citizenship, common migrant integration Directives, free movement and market-making institutions and pointed to their potential interactions with national border-drawing regimes. The EU context and case-EU relationship informs interview guidelines and document analysis, forms a backdrop for subsequent data analysis and comparison, and offers a lens for the discussion of findings.

4.3 Comparative Method and Case Selection

There is no single best solution for the design of comparative research and case selection. Hantrais (1999: 105) suitably compares it to choosing “a meal from an à-la-carte menu”, where taste, cooks, recipes, ingredients etc. change but can be equally tasty, or useful in our case. Yet, this does not open the door to arbitrary case selection. Small-n studies are indeed often taken hostage for their author’s lack of self-consciousness and comparative analytical framework as firm foundations for case selection (Collier and Mahoney 2006: 35). Instead:

“At the very least, the researcher engaging in comparative studies should be able to present a scientific rationale for the mix of countries or nations selected and should report on the implications for the research method of the ‘enforced’ choice at the research design stage as well as in the interpretation of the findings.” (Hantrais 1999: 101).

The theoretical benchmarks of border-drawing sites and their normative underpinnings developed in chapter 3 create the analytical guideline in an abductive research design and will help making sense of comparative similarities and differences in labour migration management. This view informs a specific comparative method, *idealtypical contrasting*, which this section will introduce. I will then justify the ‘enforced choice’ of Germany, France and the UK as empirical cases on theoretical and methodological grounds, and consider limitations of this choice.

4.3.1 Ideal Types as Comparative Benchmarks

While many comparative studies turn to John Stuart Mill’s most similar (or different) systems design in order to justify case selection, I have major reservations against the application of Mill’s comparative method and propose an alternative method for this thesis. Mill’s comparative methods are suited to find invariant relationships between variables, either a similarity or a difference that explains and is causal for a different or similar, respectively, outcome. They cannot capture or explain diversity within cases or interrelations between multiple factors (Anckar 2008). The research interest in multidimensional border-drawing processes, their empirical sites and specific normative underpinnings, requires an alternative comparative method that is sensitive to configurational explanations.

I suggest that we can draw on Weber’s ideal types as source for abducting and testing presumptions of the empirical border-drawing field as analytical benchmarks. A Weberian design offers several advantages: 1) it is neither deterministic nor relativistic, and focuses on constitutive explanations, and 2) is case-oriented and thus open to the scrutiny of multiple interactions and

multidimensional configurations within cases. Chapter 3 has already implied an abductive benchmarking exercise based on ideal types, but in order to increase the transparency of the research process it is indispensable to set out a clear methodological focus as to the further use of these benchmarks in the subsequent analysis of labour migration border-drawing.

“An ideal type is formed by the one-sided accentuation of one or more points of view and by the synthesis of a great many diffuse, discrete, more or less present and occasionally absent concrete individual phenomena, which are arranged according to those one-sidedly emphasized viewpoints into a unified analytical construct.” (Weber 1949 cited in Hekman 1983b: 31).

Firstly, Weber’s use of ‘meaning’ and ‘meaningful’ social action is ontologically, epistemologically, and also conceptually close to this thesis. As this research, Weber rejected universal and a-historical assumptions and emphasised the role of selective semiosis in the constitution of *meaningful* social formations. The sociologist saw social reality as “an infinite flux which cannot be apprehended in totality” (Hekman 1983b: 20). Ideal types selectively emphasise aspects of the social world and overdraw them for analytical purposes. In this context, Weber argued that social science concepts should neither be individualistic nor general as “their purpose is to synthesize meaningful, characteristic aspects of individual phenomena in order to explain the occurrence of social events” (Hekman 1983a: 121). This reading of concepts implies a strong focus on constitutive explanations and displays remarkable analytical proximity to the CPE aim of explaining the emergence of social formations. Consequently, the here developed concept of border-drawing, as informed by border-drawing dimensions and sites, dovetails nicely with a Weberian idealtypical approach.

Secondly, analyses based on idealtypical presumptions are highly case-sensitive. Ideal types accommodate abstract concepts and theorisation, but remain open to empirical contestation. The analytical construct inherent to an ideal type serves as a benchmark against which empirical cases can be assessed. In a Weberian research design cases are analysed as to their relative proximity or distance from an idealtypical presumption or a set of presumptions. By drawing on several idealtypical presumptions that initially seem relevant in the context of the empirical case, the case can be captured in its relative complexity and multidimensionality. The next section will populate this claim empirically in light of labour migration border-drawing and case selection.

4.3.2 *Idealtypical Contrasting as Comparative Method*

The comparative focus of the thesis aims to explain similarities and differences of border-drawing regimes with regard to references to border-drawing sites and their normative frameworks. Presumptions about the comparative logics of border-drawing sites hence guide theoretical sampling. I propose to synthesise presumptions developed in the review of regime theories in chapter 3 with a comparative *method of idealtypical contrasting*, as detailed below.

The comparison draws on theoretical presumptions on border-drawing sites (figure 3.4) as idealtypical benchmarks against which empirical border-drawing regimes can be assessed and compared in the subsequent analysis. This does not imply lifting ideal types of welfare states or capitalist coordination systems, for instance, to a status of empirically valid types. To the contrary: empirical border-drawing regimes are understood and explained through the assessment of their proximity or distance from the idealtypical benchmarks, i.e. through a method of idealtypical contrasting. The use of benchmarks as selective lenses for data interpretation implies that the confirmation of theoretical assumptions matters just as much as the absence of idealtypical logics.

As I established three dimensions and sites of border-drawing, the analysis will imply a triangulation of idealtypical claims across these sites. I argue that a border-drawing regime is not fully explicable in its distance or proximity to an idealtypical welfare state model, for instance. The multidimensional perspective on border-drawing means that any attempt of constitutive explanation has to stem from the analytical combination of several aspects of border-drawing and their positions vis-à-vis respective idealtypical claims. This represents an innovative methodical use of Weberian ideal types not as analytical constructs which offer a comprehensive benchmark to assess an empirical phenomenon in its entirety, but as analytical segments to shed light on multiple dimensions of an empirical phenomenon and their very interplay in an overarching configuration.

In a first analytical step, case-internal idealtypical contrasting involves a comparison of theoretical presumptions about any one case and empirical 'reality': how do the theoretical and the empirical match? Where do they differ? Do the logics of some border-drawing site outweigh those of another? Can mismatches with regard to one regime – say citizenship models – be explained with idealtypical matches in another – say capitalist coordination? The analytical weight rests on the border-drawing regime as a whole, as the research questions (R1-R3) require us to explore them across all dimensions and sites – by revealing the logics it prioritises, mutually reinforces, and overrides and later explain their emergence in comparative perspective.

Secondly, the analysis focuses on the comparative idealtypical contrasting. Chapter 3 accommodated presumptions about the national divergence of border-drawing as well as idealtypical claims about common tendencies of organising the economy, welfare states and labour markets (figure 3.4). To lead back to the main research question, can empirically traced similarities and differences of labour migration management be explained in light of the idealtypical proximity or distance of the respective border-drawing institutions in the cases studied? It might not be possible to find straightforward answers to this. Indeed, border-drawing regimes might overlap with regard to some border-drawing dimensions but diverge for others regardless of institutional proximity. The comparison will have to evaluate the extent to which idealtypical regime claims help to explain similarities and differences. It will also have to single out which claims seem more relevant in which context and whether or not we can establish a common trajectory of border-drawing from analysis. With a continuous iteration between a) theoretical border-drawing presumptions on the one hand and the empirical field of labour migrant classifications and their meanings on the other, and b) case-internal and cross-case idealtypical contrasting, this research systematically puts together a jigsaw puzzle that illustrates the links between classifications, meanings, and the context in which border-drawing configurations emerge as meaningful, and explain this jigsaw in comparative perspective.

4.3.3 *Justification of Case Selection*

Idealtypical comparative case selection starts from the premise that the institutional embeddedness of labour migration policy in national economies, labour markets, welfare states, and citizenship and integration regimes continues to inform distinct border-drawing regimes across countries. At the same time, common trajectories of competition state, welfare retrenchment and earned citizenship might be given priority in regulation, and thus override diverging normative frameworks of diverse border-drawing sites. In order to detect the interplay of a range of different border-drawing sites and norms in the comparative emergence of border-drawing regimes, the thesis requires a theoretical sampling that reflects both variety and similarity from an idealtypical outset. Ideally, this includes a variety of capitalist economies and labour markets, welfare states, and citizenship regimes while also making sure that cases share some features that could hypothetically produce similar border-drawing mechanisms. The methodological squaring of the circle this thesis has to achieve is fuelled by the need to include the utmost variety of idealtypical border-drawing sites in the limited scope of a small-n study. The pool of cases in this area study has been limited to EU-15 member states in order to keep contextual factors as similar as possible (see section 4.2.2). I propose to study Germany, France,

and the UK from a theoretical perspective, but also justify this choice with regard to macro-economic comparability and prior knowledge.

Table 4.1: Cases and Idealtypical Direction of Border-Drawing Sites

Country	Germany	France	UK
Accumulation Regime	CME, managed capitalism	CME ³⁵ , state-led capitalism	LME, market-led capitalism
Welfare State Regime	Corporatist-Conservative	Corporatist-Conservative	Liberal-Residual
Citizenship Regime	Ethnic belonging	Post-colonialism and civic citizenship Assimilation	Post-colonialism and civic citizenship Multiculturalism
Embedding in EU context	<i>Opt-in to Schengen and most migration-related Directives; restrictions for A8 and A2 free movement</i>	<i>Opt-in to Schengen and most migration-related Directives; restrictions for A8 and A2 free movement</i>	<i>Opt-out of Schengen and most migration-related Directives; relative A8 and A2 free movement</i>

Germany, France, and the UK represent good choices for several reasons. Firstly, these cases often serve as stereotypes in typologies, as chapter 3 has indicated, and we can hence assume a relative proximity to idealtypical assumptions on already well-covered empirical grounds to inform a rich analysis. Secondly, these cases pair and contrast at the same time, as table 4.1 demonstrates. They therefore promise to offer valuable insights as to the similarities and differences in national border-drawing configurations and their reference to idealtypical logics across dimensions and sites. In the multidimensional analysis of border-drawing proposed here, France serves almost as a bridging case between the relatively opposed cases of Germany and the UK. Aligning with Germany, France displays a relatively similar capitalist economy and welfare state in stark opposition to the UK. In terms of contextualisation within the EU, France and Germany share their relative embracement of the EU framework, but cautious approach towards free movement for A8 and A2-nationals, while the UK opts out of most Directives but

³⁵ The original VoC typology does not classify France, but subsequent analyses align the French case closely with the German one (Amable 2003; Kitschelt, Lange et al. 1999b). Chapter 5 discusses the exact location of the case.

open free movement options more liberally. Aligning with the UK, however, France displays a similar citizenship and historical migration regime (yet different integration approaches) in diametrical contrast to Germany.

This cross-pairing of cases with France as a versatile hub in the middle also promises to shed light on the relative weight of economic, social and politico-legal border-drawing mechanisms in comparative perspective. For instance, does the similar capitalist economic coordination in France and Germany override diametrically opposed citizenship models? Do the UK and France embed their labour migrant classification in some kind of post-colonial border-drawing mechanism? Or does a more general logic of competition state and earned citizenship override all nationally distinctions across cases and make even Germany and the UK look similar? With an eye on the embeddedness of each case within the EU, and the EU within each case, including the 'Schengen denier' UK, but also France and Germany as fierce restrictors of EU free movement to the 2004 and 2007 newcomers promises to enlighten the relevance of the differential EU embeddedness in the context of national labour migration border-drawing. Despite the limited scope of a comparison of only three cases, I suggest that the specific choice covers as much idealtypical empirical ground as possible.

Thirdly, my familiarity with the countries I lived in and studied and my ability to speak the respective languages is crucial for the contextual knowledge needed in an interpretive policy analysis, and to read documents and conduct interviews. This is also the reason for not including a Scandinavian country, even though the Social-Democratic welfare state model would have offered an interesting additional institutional script. The original research design included the Italian case as a newcomer migration nation with a Mediterranean welfare model and CME logic, yet the time and budget pressures of a PhD have unfortunately forced me to downscale the scope of the project. This thesis hence cannot offer an understanding of border-drawing mechanisms and logics in some newer migration countries in the EU-15, let alone the expanded EU post 2004. Yet, eventually, only including three cases is also an advantage with regard to the higher amount of detail that can be considered for each case, and the eventual increased thickness of contextual understanding, constitutive explanations and reflexivity.

Certainly, the limited case selection needs to be taken into account in the discussion of findings. However, the salience of labour migration in the three selected cases clarifies limitations to some extent, as fourthly, case selection also builds on macro-economic, demographic and political significance. The three countries chosen represent the biggest economies and populations within the EU, irrespective of current economic and demographic troubles (OECD 2008b). With their big labour markets the UK, Germany and France have been the top three EU

destinations for migrants for some decades, and they are also listed among the top 10 countries receiving migrants worldwide (in 2005) by the International Organisation of Migration (2008, 2009). This means that the three are likely to be under similar pressures to develop strategies of dealing with labour migration and developing regulation patterns, rendering them an interesting comparative sample with some shared contextual features. Saliency also explains why, regardless of familiarity issues, it would have seemed less convincing to study Austria, the Netherlands and Ireland instead, for example, even though they constitute a similar assortment theoretically.

4.4 An Interpretive Policy Analysis of Labour Migration Policy

This thesis research focus on border-drawing and its meanings informs an interpretive policy analysis approach (IPA). Indeed, chapter 2.3 has already drawn on IPA stances for founding the interest in policy meanings. Irrespective of the range of different policy fields, concepts, methods and normative underpinnings, it seems fair to argue that IPA scholars share an understanding of the social world as a set of structures and relationships between actors which are created by the meaning-making of powerful actors. IPA serves as umbrella term for a special branch of constructivist-interpretivist methodological and methodical approaches that are particularly interested in *policy* meanings. It is also a special branch of policy analysis, one focused not so much on technical details of the policy process, methods of coordination, or deterministic relationships between input and output, but on the normative underpinnings of policies and their being shaped by actors and structures (Fischer 2003, 2007; Yanow 2000, 2007).

From the IPA stance addressed in chapter 2, policy and entailed classifications have meaning because recognisable normative claims and references to established sense-making systems are vested in them through policy-making. This view makes interpretation the crucial vehicle of policy analysis: “As living requires sense making, and sense making entails interpretation, so too does policy analysis” (Yanow 2000: 5). Being not just interpretive in character but also critical, IPA moreover triggers an analysis of the implications that the imposition of powerful actors’ meanings through policy-making and enforcement entails for democracy, equality, and justice. The analysis will then not merely locate and compare border-drawing in labour migration policy, but also discuss the implications of specific classifications and their normative claims for migrant workers’ statuses and rights in the discussion, hence exposing the effects of symbolic state power in action.

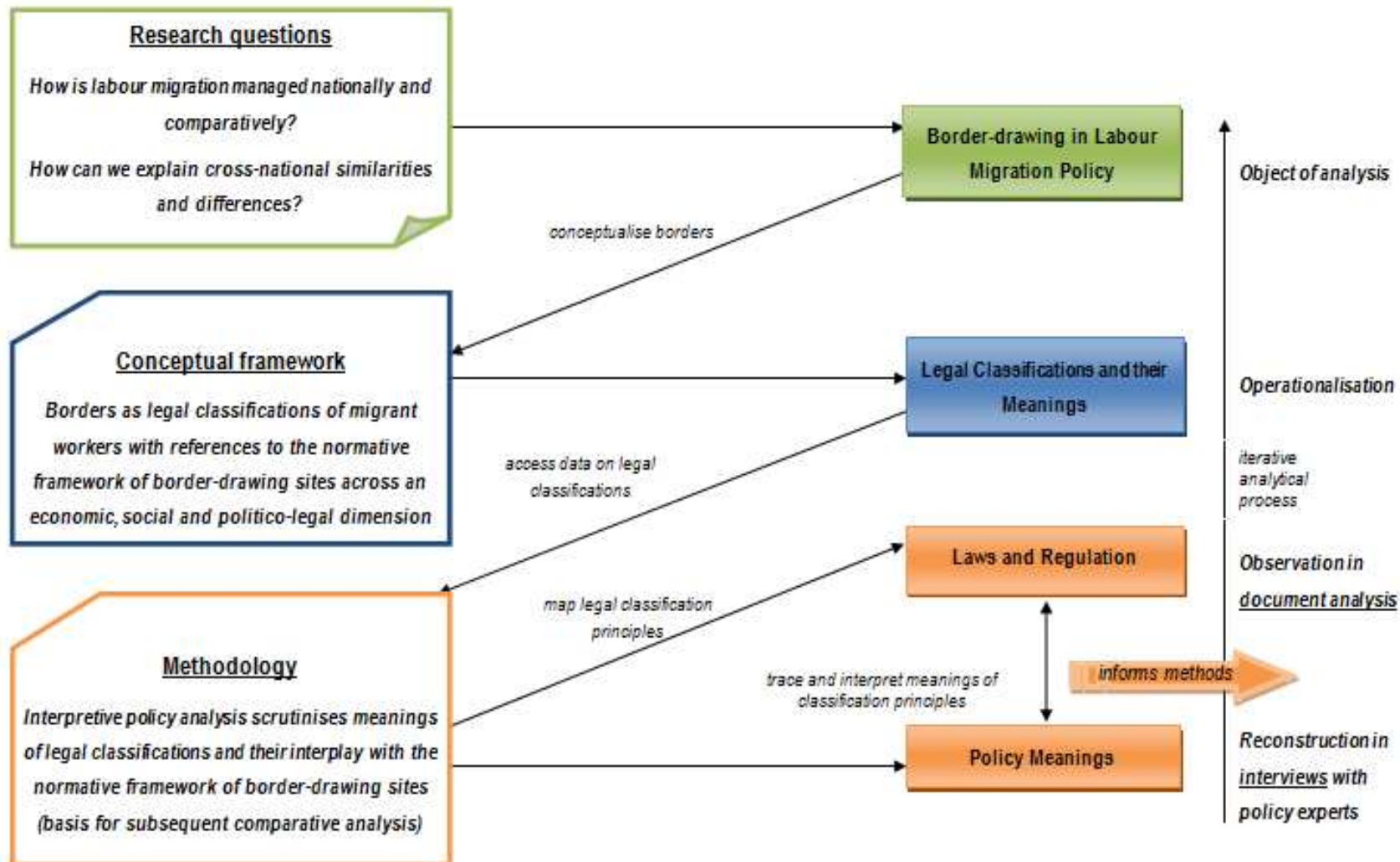
This section specifies the IPA research design of the thesis with regard to operationalisation of concepts, required data material, data access and methods of analysis, and the role of the researcher in this IPA of labour migration. It aims to make the research experience transparent, including a discussion of the methodology's theoretical and practical limitations. Figure 4.2 summarises the research design visually.

4.4.1 *From Concepts to Data, from Data to Meanings*

If the strength of small-n studies with regard to theorisation and case-sensitivity is to be fully seized the researcher has to define and operationalise concepts carefully, justify the functional equivalence of concepts across settings, and remain attentive to changes in the meaning of the concept over time or in different contexts comparatively (Carmel 1999; Hantrais 1999; Hantrais and Mangen 1996). Pitfalls of non-equivalence, spurious or catch-all overstretched concepts have to be attended to (Landman 2008; Sartori 1970), but concepts equally have to be able to 'travel' across cases in cross-national comparison (Rose 1991). What about the here heralded concept of border-drawing then?

With regard to travelling concepts, the operationalisation of border-drawing in terms of legal classifications and their meanings has the great advantage of being flexible enough to capture a variety of policies, meanings, and contexts comparatively. Border-drawing travels well across cases and contexts as various classification principles and their variable normative underpinnings are part of the initial conceptualisation. With its focus on multidimensionality and the interplay of different dimensions and sites the concept comprises contextual specificities of each case and makes them an integral part of the analysis (Carmel 1999). It is thus open to contextual variation and can cover various empirical grounds, but it is not over-stretched and neatly demarcates the analytical focus on legal classifications of migrant workers. Additionally, the focus on EU-15 cases creates some common ground in terms of the role of labour migration borders and relevant border-drawing sites and logics in all cases, and facilitates the travelling of the concept.

Figure 4.2: Overview of Research Design (without comparative dimension)



To capture the abstract concept empirically, chapter 2 has proposed an operationalisation of border-drawing as classification in public law. This makes legal classifications and their meanings the object of analysis in this thesis (figure 4.2). Legal classifications are perceived here as linguistically codified essences of wider societal divisions (Chouliaraki and Fairclough 1999; Fairclough 1989). Factual borders (as really experienced by migrant workers) are condensed and institutionally anchored in legislation and should thus be readable from the language of the law³⁶. This view of course limits this analysis to a *de jure* understanding of labour migration policies and disregards *de facto* variable implementation procedures or mitigating factors in enforcement practices. It equally neglects the political process that has led to, and will subsequently challenge and change, the current *de jure* classification regime in any one country, thus disregarding the negotiations and power games entailed in legislation practices. These are simply outside the scope of this study which dedicates its capacities to explaining a snapshot policy formation interpretively and understand underpinning meanings with reference to a wider social and economic context.

This research carries out a *synchronous* comparative analysis of legal classifications in Germany, France and the UK to provide a contemporary ‘snapshot’ of border-drawing processes and meanings. This of course cannot generate claims as to changes in border-drawing regimes over time. However, limiting the scope of the study to a synchronous analysis follows empirical and practical reasons. Due to the recent revival of labour recruitment it seems too early to trace regime changes; scholarship needs to take proper stock of the newly emerging labour migration regimes first to offer grounds for later genealogical analyses both with a focus on past regimes (i.e. guest-worker recruitment) and prospective policy changes. This thesis proposes to take stock in that sense.

What data does a synchronous *de jure* comparison of legal classifications and their meanings require and what units³⁷ can be identified as relevant for analysis? These questions constitute the missing link between ontology/epistemology, operationalisation of concepts, and method, thus bridging the gap between theory and empirical analysis. The relevant units of interpretation in this thesis are:

- the generic classification mechanisms, policy tools and selection criteria that countries apply in TCN labour admission programmes

³⁶ Directing action and constituting behaviour, right and wrong is after all their function in the legal system (MacCormick 2007).

³⁷ Positivist research would use the term measurement unit here, so I propose the term *interpretation unit*.

- and the different legal statuses and rights regimes associated with the classification process
- the meanings that policy-makers vest in classifications and differential rights regimes

It is by identifying these *de jure* classification mechanisms and criteria first that the interpretive analysis can then examine the meanings attached to these classifications and analyse their normative references to border-drawing dimensions and sites. In order to access these units of interpretation this study draws on data from 1) legal documents and 2) interviews with high-ranking policy-makers (see subsequent sections for details on data access and analysis).

On the basis of prior knowledge and initial presumptions about the field, meanings in interpretive research are accessed with methods that try to understand a phenomenon or process from the perspective of the relevant actors (Bryman 2008; Silverman 2006; Yanow 2000). But who are the relevant actors and what do their interpretations mean? The conceptualisation of border-drawing in chapter 2 has ascribed a strong role to the state and legislation in the selective interpretation and strategic arrangement of policies. Whose meanings do document analysis and interviews in this research reconstitute? What are inherent limits to this reconstruction and how do they mitigate the scope of empirical findings?

The data entailed in laws and legal documents are understood as codified state interpretations of the social world. I argue that policy-makers interpretations of legal codifications are not just individual perceptions of the social world; they are recollections of collective sense-making impositions. This view does not deny that 'collective meaning' is politically constructed, is bound to be conflictual and contested. Rather, the Bourdieusian concept of symbolic power ascribes a relatively great power to policy-makers acting on behalf of the collective: They can impose visions and divisions of the social world, most importantly by creating collectively binding norms and rules in public law. The relevant documents regard labour migration legislation; while relevant actors are those who have been powerfully involved in drafting, amending, or commenting on this legislation (details in section below).

4.4.2 Methods of Data Access

What methods are fit to access the units of interpretation described above and their meanings? Statistical data might be relevant for understanding the context of policy-making and its empirical saliency (how many migrants are admitted, on what grounds, how relevant are different permits in quantitative terms etc.). However, much more crucial for the detection of classifications and their meanings in public law in the perspective developed in this thesis, are qualitative methods. Qualitative-interpretive methods such as text analysis, participant observation, observing

interactions and acts, conversational interviewing, or ethnographies are prominent in IPA (Yanow 2000: 38). This thesis entails official document analysis and semi-structured interviews with policy-makers, and I will justify and specify this choice in the light of analytical aims below.

The two methods of data access have different functions with regard to the analytical focus of the thesis (table 4.3). Legal document analysis explores the basis classification steps, mechanisms, and criteria as codified in public law. This step represents an essential empirical contribution in itself: it thoroughly maps the legal infrastructure of border-drawing and draws first comparative conclusions on that basis, as well as enabling the subsequent *analysis of the meanings vested in classifications*. I analysed a dozen official documents per country (table A2), including all legislative bills and decrees *in operation* during the sample period (July 2009 – Mai 2011, but sequenced according to fieldwork in different countries, see below). In addition to key legislation, more detailed policy guidelines, ministerial reports and advisory statements were included where necessary for more detailed information or follow-ups on a basic legislation. Chapter 6 maps classifications in labour migration legislation based on this document analysis with the specifically designed analytical tool of *classification maps* (see below). These condensed overviews of labour migration legislation in each country trigger a first empirical discussion about main classifications within and across cases. Findings of this first analytical step³⁸ – mapping of legal classification through document analysis – also determine the structure of subsequent analysis chapters 7 and 8.

Table 4.3: Analytical Focus and Methods

Analytical focus	Interpretation units	Methods
Legal classifications	Selection mechanisms Selection criteria	Legal document analysis
Meanings of classification principles	Policy drivers and rationales References to border-drawing dimensions and sites (using idealtypical presumptions) Interaction of border-drawing logics	Analysis of semi-structured expert interviews

³⁸ This two-step IPA is not just a matter of logical presentation in the thesis; it indeed reflects the chronology of the research process: the findings from initial document analysis have heavily informed semi-structured interview guides and allowed for specific questions about selection principles in the laws. The initial analysis of *de jure* migrant selectivity thus serves as paramount legal reference point to frame subsequent primary data analyses.

In order to go beyond a mere description of legal classifications and gain insight in the normative frameworks they entail, combine, or reject, I conducted semi-structured in-depth interviews with policy experts. So while legal document analysis aims to reconstruct classifications from migration admission legislation, interviews aim to shed light on the meanings of different classification mechanisms, principles and policy tools in their context and from the perspective of those who designed the classification regime (Bryman 2008; Silverman 2006). They specifically acquire policy-makers' interpretations as to:

- the aim of classification mechanisms (Why this particular policy tool, this admission scheme? What shall be regulated with it and how?)
- the normative reference points of classifications (What drives classifications? What is the role of economic, social and politico-legal normative frameworks?)
- the relevance and interplay of different classification principles and normative frameworks (Which are most important? How do they interact, conflict or reinforce each other?)

Interviews hence populate classification maps derived from the document analysis with meanings, examine the relevance of the idealtypical analytical framework introduced in chapter 3, but equally remain open to other normative frameworks and contextual factors raised by interviewees (see topic guide, table A1). Moreover, the document analysis informed my interviewing strategy directly: I inquired policy-makers' interpretations of specific permits and policy tools, such as the resident labour market test or a certain earnings threshold, and would ask their explanations for legal distinctions between incoming workers. Knowledge derived from the interviews thus served the purposes of confirming, detailing and specifying information gained from document analysis.

As this thesis is not interested in individual agency in the policy-making process but focuses on public law as a preliminary compromise between actors' positions (chapter 2), the sample needed to include actors whose interpretations of current labour migration law, taken together, would be representative of a 'state view' due to their key role but equally cover nuances within this joint compromised view. Interviewees were mainly chosen according to relevance of different agencies and individual actors in the legislative process. The final sample included actors that have been *prominently involved* in drafting or advising on legislation which was in operation during the sampling period, and covers a range of different actor positions that have been fed into the legislative compromise. Specifically, I talked to responsible Ministers, senior officials responsible for drafting legislation, policy advisors and expert commission members, and

representatives of employer organisations and trade unions who were involved in advising legislators³⁹. I decided to exclude less relevant advisor groups such as NGOs or religious organisations. While some highlight their influence on decision-making and implementation processes (Menz 2009), I posit that their role in the codification process itself is negligible compared to employer groups or trade unions.

Interviewees are labelled according to their national and organisational context (FRA7-BUS, for instance) in order to enable intersubjective transparency of empirical claims. However, only their national background is also drawn on for analytical purposes. The thesis' focus on the state's symbolic power to impose meanings and classifications in labour migration legislation founds a genuine interest in the *overlapping semiotic grounds* between interviewees involved in a *collectively binding* sense-making process. The perspective on public law as a compromise to be worth unpicking in its own right means that incidences of symbolic contestation and disagreement over meanings, however interesting from other theoretical perspectives, are outside the scope of analysis. This conceptual and methodical decision has implications for the empirical findings of the thesis: while they will amply explore meanings of border-drawing and the underpinning interactions of normative reference points, they do not enlighten the reader about who drove the ex-ante agenda-setting and how, in institutional-procedural terms, the legal compromise under scrutiny here came into being. As outlined in the introduction, plenty of studies offer a more traditional political science approach. With this thesis, instead, I praise the value of scrutinising public law in its normative substance and as structuration tool allocating legal statuses and rights in the social world.

In total, I carried out 23 interviews with 25 individuals, 7-8 in each country (2 double interviews in Germany) (table A3). The topic guide included open-end questions which allowed participants to articulate what is relevant from their point of view, and to make their own links between classifications and meanings. Yet, open-end questioning can be a 'high-wire act' which requires the interviewer to know "when to probe and how to formulate follow-up questions on the fly" (Berry 2002: 679). My former professional training as a free lancing journalist has certainly benefited my interviewing practice in that respect. All interviews have been taped with a digital voice recorder after informed consent from interviewees, and interviews were then transcribed into rich text documents with '*F4 audio transcription*' software. For research-economic purposes, a French native speaker transcribed French interviews for me and an English native speaker

³⁹ Of course, the involvement of the so-called social partners – i.e. trade unions and employers – in labour market governance and policy-making is more strongly institutionalised in corporatist Germany and France than in the UK. However, especially employer organisations have a strong lobby in the UK in government policy-making.

helped with part of the UK interviews. To address ethical issues of anonymity, interviewees received signed guarantees that transcribers would not be informed of their identity, and that their interviews are used in an anonymous way and for scientific purposes only. Two interviewees in Germany wanted to correct and authorise the final transcripts, while all others immediately authorised the data for anonymised scientific use.

4.4.3 Access and Sequencing of Interviews

Surely, the interviewees one can access essentially determine the empirical claims one can make. Access to policy elites is object to several practical limitations due to assumed power asymmetries, their being accustomed to preventing access to non-elites, tight schedules of potential interviewees, but also the vulnerability of elites and their careers in highly politicised professional contexts (Berry 2002; Neal and McLaughlin 2009; Richards 1996; Smith 2006). The affirmative responses of participants from different countries varied. I was able to secure interviews with former Home Secretaries who co-drafted current migration laws both in the UK and Germany, but not in France. This might affect the reach of interpretive claims in the French case, but it also implies problems for the comparison. A cautious triangulation between documents, interview data and secondary literature is hence utterly important to sustain empirical claims. Generally, access in Germany and France was unproblematic: contacted elites replied overwhelmingly positively and swiftly, and snowballing worked well. It came as a surprise that access to interviewees from government and administration in the UK was most difficult. It was only after I managed to talk to a high level policy adviser, who then recommended me to colleagues, that government officials opened up access as well. Networking was utterly important in that context. This reflects the highly politicised nature of migration policy in the UK, unlike in France and Germany at the time of fieldwork: annual caps on inward migration have been emotionally discussed since June 2010, and policy actors seemed less prepared 'to talk' after the change of government only some months before my fieldwork. I identify an instance of 'vulnerable elites' (Neal and McLaughlin 2009) in the UK who seemed wary about sharing information and tried to prevent access to research of a policy under major reconstruction.

The last example raises the issue of fieldwork sequencing. Comparative research with subsequent research stays abroad sets slightly different time frames for the sample in each case. German fieldwork took place between November 2009 and January 2010, France followed in April-May 2010, and the UK interviews stretched from November 2010 to May 2011. Document analysis and case reviews were written up before each fieldwork stay started. The ontological

presuppositions of interpretive analyses require a particularly cautious and explicit embedding of the sampling and fieldwork in its spatial-temporal context when presenting data to the reader. Case profiles in chapter 5 will inform the reader of the most current debates around labour migration legislation and surrounding policy agendas to make as transparent as possible the interpretive context.

The sequencing of fieldwork was strategic; I deliberately decided to start with the German case to seize my greater familiarity with my home context and mother tongue to pilot data access and interviewing, and to take lessons learned and confidence in interviewing with me into the other contexts. Moreover, the institutional liaison with the Social Sciences Research Centre (WZB) in Berlin, and the Migration Research Unit at the Université Paris VII was useful for contextually sensitive fieldwork: the associated exchanges, meetings, seminar attendances and contacts 'poached' from colleagues 'sur place' enabled a firm embeddedness in the case during fieldwork.

Fieldwork in the UK, as opposed to Germany and France, has been endeavoured in a more temporarily stretched manner due to physical proximity to the 'field' as a University of Bath doctoral student. However, that also means that my sense of connectivity to the field has been less intense in the UK. In a way, the time-constraint fieldwork stay both in Paris and Berlin, accompanied by a freedom from teaching obligations and so on in Bath, had created a cocoon of strongly felt contextuality and merging with the field as a researcher. The more 'on-and-off' way of arranging interviews in the UK while continuing teaching, research collaborations and PhD community tasks in Bath, the initially more difficult access to interviewees in Britain, and the much more 'moving target' character of British labour migration policies after the 2010 government change have rendered the fieldwork experience much more scattered and vague in the UK. I tried to minimise obstacles to comparative data interpretation caused by the differences in field work experience by additionally participating in expert workshops and seminars by institutions such as the Migration Advisory Committee or the Migration Observatory, or attending Select Committee hearings on migration policy issues in the House of Commons. I feel that these flanking tactics have alleviated an initial feeling of unfamiliarity and inaccessibility of the British case, and founded a rich knowledge base for interpreting documents and interviews even in a swiftly changing policy context.

4.4.4 Role of the Researcher in Interviews and Analysis

These observations raise some issues with regard to my insider/outsider position as a researcher in comparative work. What 'proximity to the field' and being inside or outside a case means cannot be answered in a straight forward way with regard to foreign elite interviewing across cases (Herod 1999). Proximity can draw on different characteristics. Geographical proximity in the UK facilitated flexible access and follow-ups during an extended time period, and the institutional liaison within UK academia signalled academic authenticity and trustworthiness to interviewees (I had several remarks on Bath being 'a good university' in the UK, which never happened in France or Germany). In Germany I relied more on proximity of identity, shared belonging and socialisation as a German citizen to form relationships with participants. Yet, I also used the door-opener effect with interviewees positively acknowledging my role as visiting researcher at the well-known WZB. My position as a researcher abroad from a UK institution had somewhat mitigated my German insider position in a useful way: German interviewees seemed to perceive – and welcome – me as 'independent' expert with international expertise rather than embedded participant, opponent or voter in a *determinedly* German political debate.

I experienced the same advantageous perception by French interviewees as an 'outside' international expert without a relevant own political agenda or potential political role in the country. In fact, my role as a 'foreigner' familiar with the German and English case has explicitly been welcomed in conversations with Ministerial officials as a chance to talk about highly politicised issues that are considered political dynamite in a French context (i.e. with regard to the question of quotas and restricting family reunion). Several French colleagues at Paris VII claimed that they would not have gained access to ministerial circles due to the strong distrust between academics (apart from some elite institutions) and policy-makers in France. Being a non-French outsider implied being perceived as a European insider that could be trusted more than a French academic. In the UK, I had to work quite hard (attendance of seminars, hearings etc.) to achieve an insider position. Academic and policy networks seemed much more important than the status of a UK-based researcher or resident to gain access to interviewees. These fieldwork experiences challenge the 'cult of the insider', especially in a highly politicised and academically-infiltrated policy environment (Herod 1999). From my experience, I emphasise the strengths of using a strategic outsider position to gain access, interviewees' trust and eventually insight in empirical research and raise the awareness of the pitfalls entailed in insider positions.

I did not experience top-down power dynamics that are often associated with interviewing 'upwards'. My transnational academic and residence experience seemed to be associated with scholarly authority. My thorough familiarity with the legal background and specific probing on

details of the policy created an eye-level dialogue situation in interviews and the role of elites as individuals *to be researched* clearly entailed some power for the interviewer. Overall, well-informed, independent, interested and determined appearance can seemingly level out power dynamics in interviews. This experience confirms the claim that power elites have in their political environment does not easily transfer into the interview space (Neal and McLaughlin 2009; Smith 2006). While I did not feel my gender, race or class to be of particular importance, my educational attainment and role as an active EU free mover has been raised by interviewees on several occasions. Some participants projected their ideals of a 'good' migrant onto me and referred to me as a 'prime example' (French Migration ministry official) of high-skilled free-moving young elite in their interview responses. My own identity was hence revealingly – and somewhat seductively – drawn into interviewees' normative interpretations of policy, hence spoiling a straightforward distinction of research and policy field, researcher and objects of governance.

But the role of the researcher does not just matter in the dialogical situation of interviews. Embracing the status of individuals with their own biographical context and values ontologically, interpretive researchers need to install specific safeguards for systematic access to data and interpretations of meanings. Phenomenological and hermeneutical traditions emphasise the importance of prior knowledge and 'categories of mind' to filter empirical observations and make sense of them analytically:

"New knowledge [...] is understood as being produced not through disembodied reason but through the situated context of the 'knower' producing it. [...] each knower comes to his subject with prior knowledge that has grown out of past experience, education, training, family-community-regional-national (and so on) background, and character" (Yanow 2006: 10; 13)

The explicit articulation of the researcher's 'categories of mind' and familiarity with the context in which their object of analysis is located becomes crucial for a systematic and reflective analysis. In abductive studies prior knowledge of the field is the basis for developing presumptions that might be relevant for explaining an empirical or theoretical puzzle. Prior knowledge furthermore informed case selection in section 4.3.

Without wanting to go into biographical detail, I assume that the following personal background information is relevant to inform the reader of my prior knowledge and familiarity with the cases studied in this thesis and to understand my specific interpretive background. My early childhood in Eastern Germany with the omnipresence of physical and political borders, the fascinating experience of swiftly vanishing borders and unlimited travels in Europe after 1989, language training and the emphasis on Franco-German friendship and European identity in school, and the growing sense of only being able to make sense of these massive experiential

shifts during a still very short life span in the framework of a shared European history; all these experiences and insights fuelled my desire to truly live in Europe and as a European. I lived and studied in Ireland, France, England and Italy for a total of more than five years now, intensified my language skills with the genuine aim of communicating in Europe, worked as a volunteer for a bilingual online newspaper dealing with Franco-German relationships, and dedicated my interest throughout my academic studies to European integration topics since 2001. I have experienced, seized and enjoyed free movement within the EU on many occasions and find it puzzling how some of my friends and colleagues, on the basis of their not being EU-nationals, have to fulfil specific admission criteria, pay money to the Border Agency or hand in their passports for checks. From my strong personal identification with the European project, I find it equally puzzling that I have to apply for a visa when I want to attend a conference outside the EU. Without aiming to inscribe any normative judgement in this personal puzzle about the role and meaning of state borders within this thesis, I want to highlight that this experience of being 'singled out' or being 'carefully inspected' in different contexts of human mobility has strongly influenced my thinking and enthused my research on statutory classifications in migration policy.

4.4.5 *Methods of Data Analysis*

The quality criteria of an interpretivist study require an explicit engagement with plausibility and the scope for inter-subjective reconstruction of empirical claims (Bryman 2008). Regrettably many interpretivist pieces of research are not sufficiently explicit about the journey from raw data to findings and thereby expose the interpretivist approach to unnecessary criticism like lack of systematicity (cf Yanow 2006). Simply to claim that data has been coded and interpreted according to a specific analytical focus does not suffice. An overview of how and with which methods precisely document and interview data was analysed is required. Furthermore, topic guides, summary data tables and so on are used throughout the thesis to make interpretations transparent, comprehensible, plausible and criticisable for the reader throughout data analysis.

Document and interview analysis in this thesis draws on *critical hermeneutical methods* of text analysis. These combine the meanings of actors with context and hence acknowledge the structurally embedded character of semiotic structuration processes as conceptualised in chapter 2. Documents and transcripts are interpreted from "the point of view of the author" – state legislators in my case – but are analytically linked to "the social and historical context of its

production” (Bryman 2008: 533). This is especially important for the coding⁴⁰ of interviews and their interpretation in the light of document data, while document analysis in itself was less concerned with linkage to context yet.

Document analysis was focused on identifying classification mechanisms and principles in admission policy, mainly by means of an inductive *category analysis*. According to Yanow (2000), the identification of empirical categories maps the basic architecture of policy meanings: formal categories attached to an issue, the characteristics of category labels, and the division criteria between distinct categories speak of the meanings that legislators have vested in a policy. The analysis went backwards from every work and residence permit in a country’s labour migration regime to capture all relevant classification steps and combinations of requirements someone has to meet to obtain this permit, as well as the rights it entails. This mapping exercise established the main classifications created in labour migration and the principles of distinguishing categories in each case (chapter 6). This category tracing thus allowed me to draw *classification maps*, a specifically designed analytical overview for legal classificatory systems.

It is in combination with interview data then that context and meanings enter the hermeneutical analysis more prominently. The border-drawing dimensions identified in chapter 3 have been used as analytical themes to guide interview coding. A broad deductive thematic coding along the economic, social and politico-legal dimension of classifications was mixed with in-vivo coding emergent from the data and entailed four coding steps. In a first reading, whole transcript sections were coded under big themes like ‘national economic interest’, ‘managing migration history’ or ‘regulating welfare access’. In a second reading, the lens was fine-tuned to specify meanings and nuances of arguments within these big themes (coding example in figure 4.4). In a third analytical step, analytical themes were brought together with empirical categories that already emerged from the document analysis. Labels applied to migrant workers in laws as classificatory devices such as ‘high-skilled’, ‘low-skilled’, or ‘of a particular national origin’ were analysed in the thematic context in which interviews discuss them. The coding software’s possibility to run code-relations browsers helped me to quickly identify frequent overlaps and co-occurrences of particular codes (such as ‘high-skilled’ and ‘national economic interest’, or ‘low-skilled’ and ‘domestic unemployment’). This is where the fourth step of in-depth analysis started: having mapped broad links between themes and policy categories across interviews per country, the relevant text segments have then been scrutinised in a more fine grained way to establish

⁴⁰ Transcripts were imported, coded and analysed with QDA software (MaxQDA).

patterns across texts, overarching narratives and semiotic systems that link themes and categories in specific ways. The meanings of legal classifications could eventually be grasped on a more abstracted level and the initial category analysis could be given more substance. I additionally used *metaphor analysis* where policy-makers used insightful allegorical language, transporting symbolic meaning in policy phrases such as ‘the flood of immigrants’ or ‘a red carpet’ in relation to welcoming high-skilled workers. The careful deciphering of such metaphors exposed condensed snapshots of the policy’s normative underpinnings (Yanow 2000).

As the later gradual analysis in chapters 6-8 will show, findings from documents alone would not have allowed for the same level of depth and nuance in the comparison. Indeed, it is the combined view on legal classifications derived from documents and policy-makers interpretations of those in interviews that has forged the overall argument. For example, interviews showed that seemingly similar classifications of migrants by skill level bear variable meanings in different national contexts, or that similar policy tools such as an earnings threshold for high-skilled permits is more or less contested in different contexts. Interviews further exposed different combinations of drivers of the overall policy and highlighted the relevance of specific national contexts and labour geographies in explaining these different drivers (see chapter 9.3.2 for discussion of context). It was, lastly, by means of analysing interview data that I was able to also identify targets of labour migration management other than incoming migrant workers (the domestic unemployed, resident family members, voters and so on, see chapter 9.4.3 for detailed discussion) and make these specific rationalities part of the comparative analysis.

The biggest limitation of IPA is its dependence on researcher interpretations of documents and interviews, implying potential biases and interpretive frames. While from an interpretivist stance the term researcher ‘contamination’ is illogical – all forms of sense-making including academic statistical data analysis entail interpretations – data interpretation has to be systematic and transparent (Bryman 2008). To increase systematicity and transparency of my conclusions, all empirical claims have been carefully triangulated with policy document analysis and reviews of secondary literature (see Silverman 2006). The analytical separation of policy document analysis (chapter 6) and interview analysis (chapters 7 and 8) serves to increase transparency by gradually building up interpretations of comparative labour migration management. I moreover took great pains to visualise policies and context in several maps, provide case timelines and data tables and hence, hopefully, present a conclusive analysis to the reader.

4.5 Conclusion

This chapter outlined the thesis' research design, specified and justified its methodological and methodical choices. Legal classifications of migrant workers and the meanings ascribed to them by policy-makers form the objects of analysis in this research, with the ultimate goal of understanding comparative similarities and differences in labour migration management. This analytical focus, I argued from a constructivist-interpretivist ontology and epistemology stance, informs an IPA approach to data access and analysis. I established a contextualised small-n comparison to understand cases in-depth, and designed a comparative method that uses idealtypical presumptions about border-drawing sites as theoretical benchmarks against which to contrast empirical cases. The study concentrates on the EU as contextual setting and incorporates the EU framework as part of each case into the analysis. Germany, France, and the UK were selected on the basis of their idealtypical cross-pairing in terms of border-drawing sites, thus enabling a wide coverage of potential normative frameworks of border-drawing across its economic, social and politico-legal dimension despite the thesis' limited scope of only three cases. Legal documents and interviews with policy-making elites provide access to data on legal classifications and their meanings. They were analysed by help of a systematic mapping of policy categories in laws (chapter 6), and a subsequent interpretive analysis of these categories through thematic and in-vivo interview transcript coding (chapters 7 and 8). Before plunging into this empirical analysis, however, the ideographic research design requires a systematic engagement with case contexts to inform a case-sensitive analysis and enable constitutive explanations as to the emergence of specific border-drawing regimes in comparative perspective. Chapter 5 is dedicated to that task.

Figure 4.4: Example from Interview Coding (main thematic coding)

The screenshot displays a qualitative data analysis software interface with three main panels:

- Left Panel (Codebook):** A hierarchical list of codes with their respective frequencies. The 'wider integration policy' code is highlighted.

Code	Frequency
IP_FRA_03	220
IP_FRA_04	206
IP_FRA_05	75
IP_FRA_06	195
IP_FRA_07	118
Interviews GER	957
Interviews UK	706
Codesystem	2671
links with EU and free movement	150
statistics	12
direct comparison with other country!!!	24
implications of categorisations	119
Socio-political issues	0
'balanced' migration system	90
preferences/hierarchies	232
electoral politics	39
manage migration pressure/history	142
other public policy interests	0
budget and finances	7
Regulating welfare access	20
co-development and aid	25
security	8
target resident population	14
links to asylum policy	34
wider integration policy	122
education and training policy	55
societal philosophy	356
Economic needs	0
Economic needs definition	0
investment	3
national economic interest	176
qualifications	274
need/recruitment	276
temporal scope	145
labour market links	0
generic labour market and macroeconom...	180
job creation/benefits by skilled migration	18
secure migrants labour market success	26
resident labour market protection	124
- Middle Panel (Coding Diagram):** A visual representation of the coding process. It shows a vertical timeline with various codes (e.g., ..manage, ..national, ..balanced, ..spe, ..de, ..usef, ..migma, ..excep, ..high, ..rights, ..comp, ..high skills, ..competitiveness, ..high skills, ..facilitate, ..exceptions, ..facilitate) mapped to specific segments of the interview text. The diagram uses colored lines and circles to indicate the placement of codes.
- Right Panel (Interview Transcript):** A list of interview segments with their corresponding codes. The transcript is in French and discusses immigration policy and the challenges of recruiting skilled workers.

7 Nous avons ré-ouvert cette immigration professionnelle avec des objectifs assez élevés puisque **notre objectif premier était que l'immigration professionnelle représente le même flux migratoire que l'immigration pour regroupement familial en 2012**. Donc nous avons ré-ouvert l'immigration professionnelle d'abord pour répondre aux besoins des entrepreneurs. Comme je vous l'ai dit, il y a des manques manifestes de main d'œuvre. Pour répondre aussi au fait, qui est assez évident, que même si nous avons une croissance démographique qui est satisfaisante par rapport à l'Europe, il y a quand même un certain nombre de besoins qui doivent être satisfaits et que la croissance démographique peut ne pas satisfaire. Mais, mais on va beaucoup plus loin, on recherche aussi une **immigration professionnelle, je dirais de haut-de-gamme** pour satisfaire des emplois où le recruteur ne se borne plus à regarder dans un territoire étroit: la région, voire la ville, n'est pas satisfaisant. On va voir la France, on va voir l'Europe, on va voir le monde. Si vous voulez, vous avez les emplois qui nécessitent de pouvoir se dire: **je recrute qui je veux. Oui je veux parce que la personne que je vais recruter va m'apporter un bonus en terme de travail, d'intelligence, d'innovation**. Donc, pour un certain nombre d'emplois qui sont des emplois qualifiés, très qualifiés, l'immigration professionnelle ne va pas chercher à être un ajout par rapport à la situation de l'emploi en France et par rapport à un déficit supposé, l'immigration professionnelle va être un outil qui est un outil de croissance.

8 (...) Je vais prendre un exemple que j'aime bien et que vous apprécierez comme vous voudrez (laughs), qui un **exemple de football**. Vous avez désormais, depuis l'arrêt Bosman, la possibilité de recruter tous les joueurs européens que vous voulez. Et en fait, grâce à des accords avec un certain nombre de pays, vous avez l'embarras du choix. Le résultat c'est que vous voyez l'Inter de Milan en finale, Barcelone en demi-finale, bon certes, le Bayern Munich en finale aussi, mais Hertha Berlin n'est pas en finale! Et en fait, si on limite, comme autrefois, l'apport des joueurs à un déficit de formation, peut-être qu'Hertha Berlin pourrait devenir champion et même gagner la League des Champions. Mais on est dans une logique de football universelle où les grands clubs recrutent dans le monde entier, et ce sont ces grands clubs que l'on retrouve en finale. Donc si vous limitez, si par exemple l'Allemagne se limitait à ne recruter que des joueurs allemands ou presque, si vous limitez votre possibilité d'immigration de grands joueurs professionnels étrangers, vous ne pourriez pas devenir champion, champion européen. # 0:10:16-4#

9 Int: Alors ça c'est la compétition internationale, comme vous expliquiez. #00:10:22-5#

10 FRA_IP_06: Exactement. Eh bien c'est la même chose pour les banques, c'est la même chose pour un certain nombre de grandes entreprises où lorsqu'il faut recruter à un certain niveau, il faut recruter où on veut. Donc en fait, nous avons introduit un élément très important à notre droit qui est la possibilité, pour les entreprises multinationales, de recruter les étrangers comme **"salariés en mission"**. Ça veut dire, pour une mission de quelques mois au maximum de 3 ans. (...) mission qui amène à recruter un étranger auquel n'est pas annexé

5 Profiling Cases: Regimes, Labour Geographies, Recruitment Policies

Putting a contextualised, small-n, interpretive research design (chapter 4) into practice requires a firm understanding of cases in their contexts. To anchor the comparative analysis of labour migration management accordingly, this chapter profiles each case in detail, mainly drawing on statistical information on migrant flows and secondary literature on policy legacies. I briefly locate countries in the regime literatures discussed in chapter 3 (figure 3.4). Each case profile then depicts main characteristics of the *labour geography* into which migrant workers are recruited in labour admissions. The concept of labour geography exposes countries' specific relations with sending countries, host countries' migration histories, their embeddedness within the (changing) European labour market, but also the distinctly *political* management of these contexts and relationships throughout a longer-standing history of labour migration policy. It acknowledges other forms of migration – asylum, post-colonial entries, ethnic repatriation – and their role in the labour market as important analytical context for current admission decisions.

Even though case profiles focus on the present composition of the migrant workforce, and their role in host labour markets including informal segments, I understand labour geographies as historically emerged configurations. This perspective takes the connectivity of symbolic orders through time and the selective arrangement of policies seriously (chapter 2). It acknowledges that previous political decisions and geopolitical relationships continue to shape current phenomena through their sedimentation in the labour geography under scrutiny. They form a crucial backdrop for current policy-making and, consequently, the comparative analysis of current admission policies. Sections lastly offer a brief summary of the current reactivations of recruitment policies and the instantaneous context of their emergence. While the case profiling predominantly draws on secondary data and literature, it systematically pulls out the analytical context for chapters 6-8. Several figures, statistics and tables accompany the text to facilitate the reading of case profiles. Chronological overviews of main historical landmarks in migration policy and current policy trends offer a detailed reference point for the profiling of contemporary labour geographies and their management through migration policies (tables A4-A6).

5.1 Germany: Demographic Pressure in a *European Labour Geography*

The first section deals with the German case. It locates it as a stereotypical CME, Bismarckian welfare regime and traditional ethnic belonging model of citizenship. The German labour geography is distinctly European and emerged in the context of guest-worker recruitment, absence of post-colonial ties, ethnic German repatriation, and asylum inflows mainly from the

Balkans. Policy-makers in the new Millennium have revitalised labour recruitment in Germany against a setting of pressing demographic issues and economic interests. The distinct demographic decline in the Federal Republic forms a comparably more urging context for the notional need to recruit foreign workers.

5.1.1 *Germany's Location in Regime Theory*

Germany figures as prime example of a respective type of national economy, welfare state and citizenship regime (chapter 3). The country is widely perceived as stereotypical CME featuring all of the characteristics which the original VoC approach has outlined (Hall and Soskice 2001a). The particular categorisation of German economic governance as 'negotiated' or 'managed' capitalism (Coates 2000; Schmidt 2002) stems from negotiation practices (e.g. for wage bargaining) championed by social partners without much state intervention. State actors and interventions fulfil the role of 'enabling facilitators', rather than acting pro-actively or directing economic coordination process (Schmidt 2002). The sector most often drawn on as CME example is the German automotive industry with its various suppliers. Besides a generic focus on economic utility and competitiveness, the specific German location in capitalist regime theory lets us expect a concentration on high and specific skills in labour recruitment, a sectoral organisation of demand-led recruitment, specific welfare incentives to attract the required skills base, but also a rather tight regulation of labour market entries in a relatively inflexible labour market in which further-reaching employment and social rights are derived from initial labour market participation (table 3.4).

In Esping-Anderson's welfare state typology, Germany serves as the paramount example of a Bismarckian Corporatist-Conservative regime. While some highlight the hybridisation of the German welfare model with elements of a liberal regime in employment policies but also similarities to a Scandinavian activation approach (Hinrichs 2010), the basic relevance of status maintenance and rights acquisition via labour market participation still applies. We can hence expect the functional link between work and welfare to be drawn on in labour admission policies as well: either as incentive for the skill levels targeted, or as a cause to shield the labour market against unwanted migrant workers.

Lastly, German citizenship policy-making has usually been associated with the ethnic belonging model in a Diaspora context (Joppke 2005b), even though shifts towards elements of civic citizenship have been diagnosed more recently (Green 2001; Palmowski 2008). Guest-workers and their offspring have long been excluded from politico-formal inclusion in restrictive naturalisation practices, while ethnic Germans have liberally been 'repatriated' based on

consanguinity. However, the experience of guest-worker settlement is also likely to be anticipated in integration policies, whether in a more liberal integrative way under the umbrella of a newly emerging civic model of citizenship in Germany, or indeed as a trigger for further entry restrictions. Moreover, the privileged legal standing of EU-nationals is likely to layer both the German citizenship approach and the high-skills targeted CME recruitment strategy, and to create an additional instance of classifying foreign workers by origin in labour admissions.

5.1.2 The German Labour Geography

Almost 3.3 million foreign individuals accounted for 9.4 per cent of the workforce in Germany in 2009 (OECD 2011). A glance at the composition of registered foreign residents in Germany (figure 5.1) reveals historical links to specific sending countries and past political recruitment decisions. The profound *Europeanness* of the German labour geography is striking in comparison with France and the UK. This is the result of several past political decisions and contexts: a deliberate exclusion of non-Europeans from guest-worker recruitment agreements in the post-war era; a simultaneous lack of colonial labour ties to other parts of the world; a strongly promoted politico-formal integration of ethnic Germans from Russian territories up to the early 1990s; and an increasingly restrictive stance on asylum-seekers, with principal origin from the Balkans.

The historical relevance of 'guest-workers'⁴¹ from the wider European continent leaves its traces in foreign residence statistics to date, with Turkish residents accounting for almost a quarter of all foreigners living in Germany in 2009, and Italians and Greeks jointly making up another 11 per cent. In response to severe labour shortages after the Second World War, Germany recruited large numbers of predominantly unskilled male workers in the 1950s and 1960s through bilateral agreements with labour exporting countries (table A4). From the first agreement in 1955 until the suspension of recruitment in 1973, annual inflows more than quadrupled, peaking at almost one million newcomers in 1970 (figure 5.2)⁴². In effect, the foreign resident population in Germany grew from 686,000 in 1961, to 3.9 million in 1975.

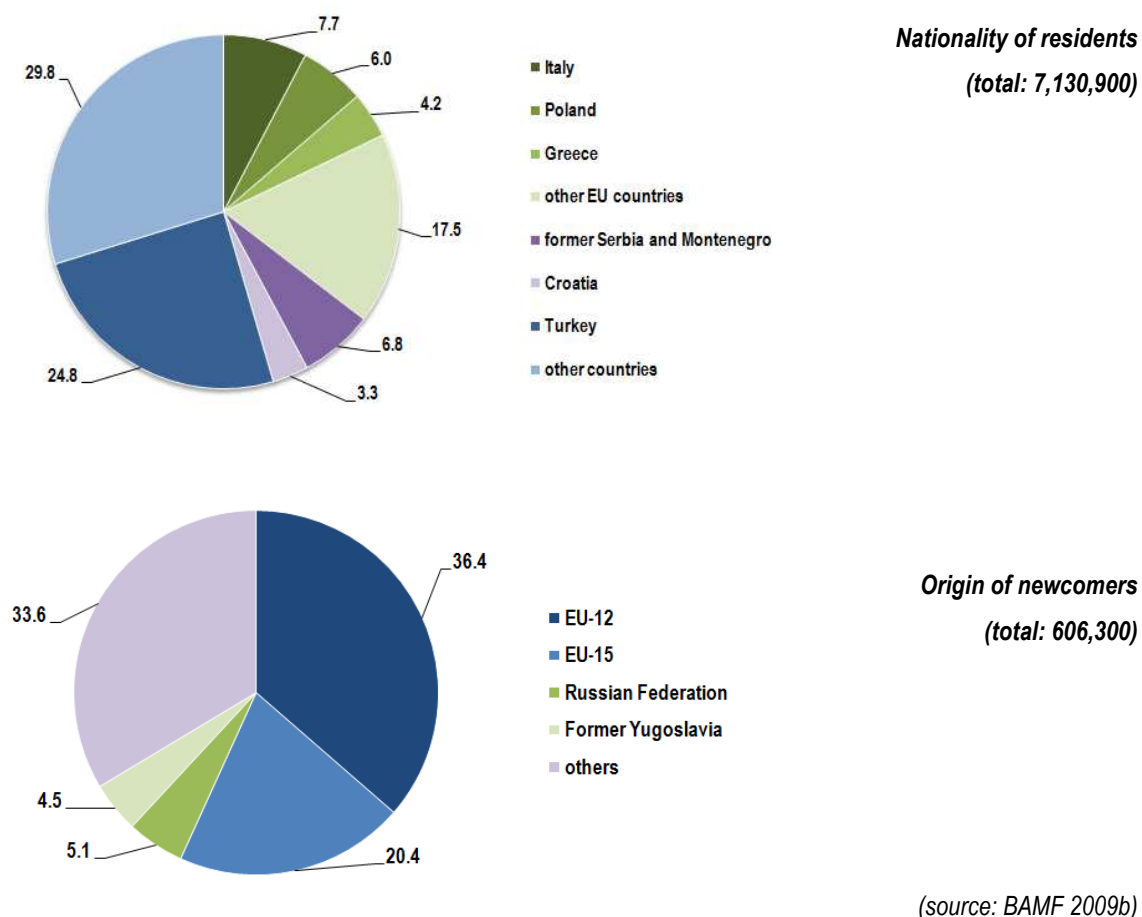
The recruitment history bears sedimentations in the contemporary German labour geography. While German policy-makers had treated migration as a beneficial labour market strategy without much consideration for long-term societal effects (Castles 1985, 1986; Rogers

⁴¹ This official term (*Gastarbeiter* in German), suggesting that workers can be recruited temporarily and made to leave when their labour is no longer needed, is part of the policy philosophy at the time, but also had some more recent recurrence (Castles 2006; OECD 2009).

⁴² Even though figure 5.2 displays also non-work inflows to Germany due to unavailability of disaggregated data, we can nonetheless read major tendencies for labour entries from it.

1985; Werner 2001), settlement of workers and their families was already mature when the government announced an official recruitment stop in 1973 (Triadafilopoulos and Schönwälder 2006). With family reunion kicking in, entry numbers continued to increase substantially to an intermediate peak of 4,7 million residents in 1981 before levelling off (BAMF 2009a).

Figure 5.1: Origin of Foreign Residents and New Entries in Germany (2009, in per cent)

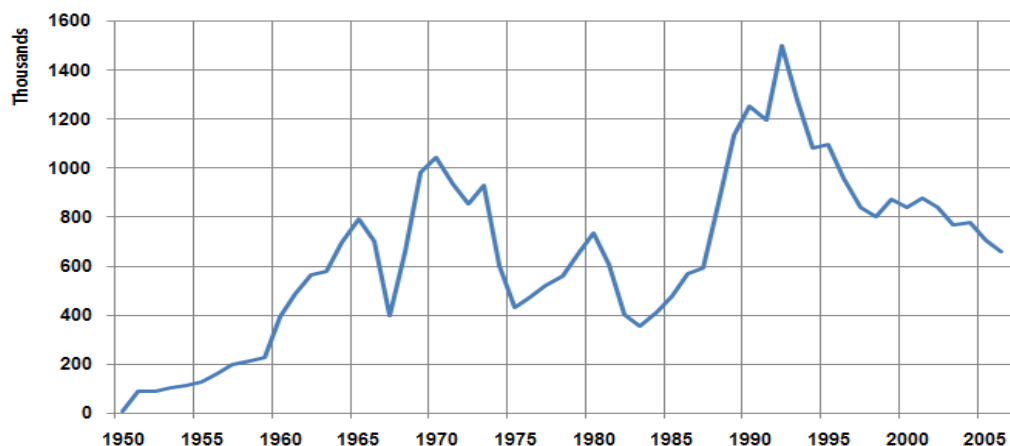


Without colonial labour links German policy-makers in the 1950s and 60s could shape the emerging labour geography to a European ideal, and contentedly excluded workers from other parts of the world from access⁴³ (Schönwälder 2004). Despite the numerical significance of guest-worker residence and their deliberate selection from the wider European labour market, there was no perceived need to accommodate migrant workers, establish effective integration measures or offer viable naturalisation paths (Castles 1985; Cyrus and Vogel 2007; Green 2007; Triadafilopoulos and Schönwälder 2006). Until a legal change in 2005, Germany remained firmly

⁴³ A similar argument is made by Hansen and Jonsson (2011) in a wider European context.

attached to the ethnic belonging model of citizenship which excluded most guest-workers and their German-born children from access to German nationality (e.g. Green 2004).

Figure 5.2: Migrant Inflows to Germany (1950-2005)



Source: Statistisches Bundesamt (2011); until 1990: without German Democratic Republic

This treatment is in stark contrast to ethnic German migration from mainly former Soviet territories who were officially welcomed as co-nationals from day one of their arrival. During the territorial re-demarcation of Europe in the immediate post-War years, high numbers of ethnic Germans repatriated from former German territories in the East. Ethnic German entries increased once more after the end of the Cold War: while during 36 years since 1950 about 1.34 million ethnic Germans repatriated in Germany (mostly from the territory of post-war Poland), another 1.05 million individuals mostly from ex-Soviet territories came in only five years from 1986 and 1990, almost 400.000 of which in 1990 alone (BAMF 2011; Hensen 2009). Despite some public hostile backlashes (see below), their integration has been straightforward in legal terms, as German citizenship was automatically granted to ethnic German repatriates whose German heritage has been acknowledged. Moreover, the 'simulation'⁴⁴ of full German employment biographies for ethnic German newcomers facilitated their social integration according to Bismarckian status maintenance logics immensely (Bommes 2000).

Irrespective of the lack of politico-formal integration a lot of foreign workers benefited from social inclusion mechanisms in the Bismarckian welfare state. By contributing to the social insurance system migrant workers have acquired welfare entitlements with respect to unemployment and pensions, for example. Several observers have assessed the link between

⁴⁴ German pension calculations, for instance, would include working age years not spent in Germany in order to avoid gaps in the entitlement record.

social contribution and labour market integration of migrant workers in Germany as being beneficial for their de facto socio-economic integration, although the status maintenance logics in the Bismarckian model has also cemented unequal labour market positions and differential exclusion patterns of foreign workers (Bommers 2000; Kaiser and Paul 2011; Koopmans 2010; Morris 2002). A major socio-economic integration hindrance is seen in the lower educational attainment, formal skill level and labour market participation of second and third generation 'guest-worker' residents (Thränhardt 2004; von Below 2007), the irony being that their parents or grandparents had once been recruited in their capacity as cheap low-skilled labourers. Political recruitment decisions made fifty or sixty years ago powerfully continue to shape today's labour geography – mainly regarding its socio-economic and ethnic composition –, and thus form a backdrop for current recruitment debates in Germany.

More recent developments suggest a decreasing empirical relevance of ethnic selectivity than the traditional ethnic belonging citizenship model laid out in chapter 3 would have us expect. The preferential treatment of ethnic German repatriates declined throughout the 1990s. A quota for newcomers was established in 1993 and limited annual entries to approximately 200,000. Given more restrictive policies, public hostility as well as the surmounting of the post-Cold War momentum, the chapter of ethnic German repatriation appears pretty much closed in contemporary Germany (Joppke 2005b): annual entries dropped to 35,000 in 2005 and even less than 8,000 since 2006 (BAMF 2009b: 54). The route was officially abolished in 2010.

Besides settled 'guest-worker' generations and ethnic German repatriates, asylum seekers represent the third large type of inflows. Asylum figures rose especially during the late 1980s and 1990s, with a peak in 1992 (more than 440,000 newcomers). Figure 5.1 indicates that this refugee migration originated mainly from the disintegrating Yugoslavian territories during the Balkan wars, with Serbs and Montenegrins now being the second largest non-EU population in Germany (Huddleston and Niessen 2011). While entry options have been cut back in the 1990s and Germany only grants protection to some ten thousands of asylum seekers annually now, the country is still the largest recipient (especially compared to the UK, see Huddleston and Niessen 2011). Asylum seekers' rights have been curtailed considerably in a context of increasing public hostility and more general welfare retrenchment in the 1990s. Until and unless they are officially recognised as refugees, their right to work is suspended in the initial years of their stay, which also denies them access to social insurance benefits and the labour market related pathways of socio-economic inclusion (Kaiser and Paul 2011; Sainsbury 2006). When rejected as refugees but not expellable immediately, asylum seekers mostly obtain the insecure and preliminary status of toleration (*Duldung*). This exclusionary non-status attributes them a marginalised position in the German labour geography as well as social inclusion system, and might de facto force them

into informal employment.

As it is notoriously hard to detail size and type of informal (migrant) employment, we can only rely on rough assumptions. Papadopoulos (2011: 33, table 2.3) estimates the share of irregular migrants in the total foreign population living in Germany to be 4.5 per cent (2008). While this number is relatively low compared to France (8.0) and the UK (17.5) and lower than the EU-27 average (10.0), studies of specific sectors such as domestic care pinpoint structural reliance on informal migrant workers (Lutz and Palenga-Möllenberg 2010). We can also not know how many of these informal workers have indeed been rejected as asylum seekers. What we do know, however, is that a large grey area of semi-legality for Eastern European workers (mainly from Poland) – who have enjoyed personal mobility within the EU since 2004 but experienced major labour mobility restrictions – has been formalised overnight with the fulfilment of free movement for A8-workers in May 2011. With more than 36 per cent of all newcomers in 2009 being from the post-2004 EU member states and another 20 per cent originating from the EU-15, the Europeanness of flows is certainly a continuous defining characteristic of the German labour geography; yet, the now fully legal access to cheap labour in Eastern neighbouring countries has considerably changed the geopolitical context, and, consequently, the analytical backdrop of German labour migration border-drawing.

5.1.3 German Reactivation of Labour Admissions

Policy shifts away from the general recruitment stop were already triggered by German reunification in 1990. Huge labour demand existed especially for construction workers on the then biggest construction site in Europe in Berlin. The fall of the Berlin Wall made a whole new 'pool' of cheap workers available in Eastern European countries and the German government issued recruitment treaties (*Anwerbeabkommen*) for special skilled and unskilled occupations with Poland in 1990 and other countries⁴⁵ to channel recruitment in the construction industry, but also seasonal work etc. (Menz 2001). Some of these agreements are relevant to date; but most will (and have already) become redundant with the establishment of EU free movement for accession countries. The strong emphasis on intra-EU flows, which is reflected in the composition of newcomers (figure 5.1), severely limits the scope for TCN labour admissions and continues the German path of predominantly European recruitment. It evidences border-drawing by origin which the subsequent analysis will have to scrutinise in depth.

⁴⁵ Treaties were moreover concluded with Hungary, Croatia, Slovenia, Bosnia, Macedonia, Romania, the Czech Republic, Slovakia, Bulgaria, Latvia, Turkey and Serbia and Montenegro (see Menz 2001).

At the same time, however, the fear of losing control over volumes and labour market distribution of Eastern European flows was at the core of the German decision to operate transitional limitations to free movement until May 2011 for the A8 and up to 2014 for Bulgaria and Romania. We witness a cautious but increasing embedding within a changing European labour geography. This supports the claim that the German CME issues relatively tight labour market admission policies, even towards prospective EU free movers. Both claims will be discussed in subsequent analysis chapters.

A more encompassing debate about the economic virtues of labour migration revived in 2000 and was catalysed by a debate around a German 'Green Card' for IT-specialists. Due to massive labour shortages in the IT sector (vacancies between 75,000 and 150,000 had been reported in 2000; see Werner 2001) then Chancellor Schröder personally called for the recruitment of specialists where internal EU supply did not seem to suffice anymore. By highlighting the need to maintain and advance international competitiveness, innovation and economic growth, and to respond to urging labour shortages and demographic shrinking of the German workforce, Schröder's initiative implicitly answered the question of whether or not Germany was a country of immigration affirmatively. Policy rhetoric gradually established that the national economy "had to attract highly skilled immigrants to remain economically competitive" (Green 2007: 112). Certainly underpinned by a change of government towards a Social Democrat-Green lead after 16 years of Conservative rule, this significantly changed the parameters of the policy debate and contributed to a reappraisal of the German policy paradigm of non-immigration country and reluctant migrant integration.

It is important to take the demographic argument for what it is: a *genuine* driver of German policy change that underpins current legislation. Unlike France and the UK, Germany experiences shrinking in the overall population, low fertility rates paired with ageing particularly reduce the relative share of the working age population. While population projections estimate a population growth by 4 million people in France and by more than 3 million in the UK between 2010 and 2050, the German population is expected to shrink by around 8 million. The trend is not just a prospective one but forms a highly contemporary policy context: in 2010 the proportion of the population aged 65 and over has been much higher in Germany (20.4 per cent) than in France and the UK (16.8 and 16.6, respectively) (Eurostat 2008). While not precluding the potential layering of economic utility reasoning with other agendas in German labour migration policy-making, the demographic context means that a German pledge for foreign labour recruitment might indeed functionally link to the labour market situation to a considerable extent.

Against this backdrop, an Expert Commission – the so-called *Süssmuth-Kommission*⁴⁶ – was charged with drafting a new law and presented an encompassing report in 2001 (Unabhängige Kommission 'Zuwanderung' 2001). Besides an engagement with citizenship reforms and more effective integration policies, the Commission proposed a Canadian-style points-based system to recruit workers. After strenuous political power games in the second legislative chamber *Bundesrat* (Green 2007), Germany's first comprehensive Migration Law came into force on 1st January 2005 (Bundesrepublik Deutschland 2004). This had compromised more radical policies like a points-based system, but nonetheless triggered a cautious liberalisation of labour admission rules. Indeed, actual work entry figures under the new provisions are of limited scope if compared to the large scale recruitment in the 1950s and 1960s. Only around 29,000 employees came to Germany in 2007, and slightly more than 26,000 in 2009⁴⁷ (Parusel and Schneider 2010: 60f), which is a relatively low record compared to inflows during the guest-worker period (see above) but notionally confirms the highly selective and fine-tuned character of post-Fordist labour recruitment discussed in chapter 1. In any case, the Migration Law has opened up prospective space for new skilled entries which, against the backdrop of looming demographic workforce shrinking and increasing labour demands, might yet have a bigger role to play. Chapter 6 will detail legal provisions to enable in-depth analysis of the current German border-drawing regime.

5.2 France: Politicised Struggles over Post-colonial Flows and Ethnic Hierarchies

France epitomises characteristics of state-led capitalism and Bismarckian welfare, sharing most economic and social coordination features with Germany. It moreover serves as prime example of a post-colonial civic citizenship regime – just as the UK – but is distinguishable by its specific focus on assimilation and political citizenship. The French labour geography has initially been shaped by utilitarian guest-worker recruitment which imposed ethnic hierarchies favouring Europeans, but post-colonial inflows from Africa have increasingly dominated the terrain from the 1960s onwards. Attempts to loosen these ties and restrict entry and residence rights of these migrants have taken place in a highly politicised climate. An important marker is the conflation of post-colonial descent and informal labour market positions of migrant workers in this context. The lack of demographic pressure perceptions and simultaneous struggle over post-colonial ties and

⁴⁶ Named after Rita Süssmuth, a senior conservative member of parliament (CDU), migration expert and former Speaker of Bundestag, who was appointed to chair the commission

⁴⁷ With inflows registered mainly from the US, India, China, Croatia, Bosnia and Herzegovina and the Russian Federation (between them make up for more than 50 per cent of all admissions)

ethnic hierarchies of migrant workers puts the French revitalisation of labour recruitment in 2006 in a specific interpretive context.

5.2.1 *France's Location in Regime Theory*

French economic coordination features some CME parameters similarly to Germany – such as the focus on high and specific skill recruitment and trust relationship between firms – as well as sectoral organisation mechanisms (Amable 2003; Kitschelt, Lange et al. 1999b). However, the presence of quite distinct characteristics provoked a categorisation of France as ‘unclassified’ in the original VoC approach (Hall and Soskice 2001a). Scholars have highlighted the more important role for regulation in the state-led or ‘state-enhanced’ model of capitalism, and describe the role of the French state as an ‘interventionist leader’ that actively shapes conditions for firms’ competitiveness (Schmidt 2002). In a *dirigiste* tradition France has relied on tools like direct ownership - in 1981 the French state owned 13 of its largest 20 firms -, indicative planning and strategic research subsidies to strengthen competitive sectors. For instance, credit allocation favoured the creation of ‘national champion’ industries and companies and even more liberal-seeming privatisations were strongly directed by state interests (Culpepper 2006; Hancké 2001; Loriaux 2003). Loriaux (2003: 107) further emphasises the role of French elites with typical careers across the private-public divide and a common socialisation “into a system of values that thinks in terms of national interest, of France's place in the world and in the world economy”. French economic governance is strongly tied together through a discourse of national economic interest across administrative and business elite realms. Beyond the assumptions drawn from the CME typology in accordance with Germany (figure 3.4) – skills targeted in labour migration, sectoral organisation of recruitment and tighter regulation of admissions in a relatively protected labour market – we can hence expect French regulation to enact a more pro-active and directing role in labour recruitment with a focus on the national economic position as a whole, rather than a mere reaction to individual companies’ demands like in the German facilitating model.

The French welfare state has been described as similar to the German one (chapter 3), with comparable presumptions emerging for labour migration policies. However, recent research documented shifts away from a status maintenance social insurance model towards social protection as an instrument of workfare, employability and business competitiveness, and eventually describes ‘dualizations’ of the Bismarckian tradition and a more market-based liberal social protection system (Palier 2010a). These might impair the relevance of equivalence logics of contributions and rights vis-à-vis migrant worker recruitment. But dualisation tendencies might also be seized selectively to attract well sought after workers with a generous system of status

maintenance, while excluding unwanted workers from access to anything more than basic rights in a workfarist system.

Lastly, the French citizenship and integration model has been identified as based on a civic political community and *ius solis* mechanisms paired with an assimilationist approach. Chapter 3 has indicated how the Republican civic tradition might disqualify selection by origin or ethnicity as a principle; yet, at the same time, France's colonial heritage has triggered special relationships with sending countries in Africa. The special treatment of EU citizens and gradual phasing in of free movement for A8 and A2-workers – as in Germany – layers both the civic citizenship model and utilitarianist skills recruitment approach with classifications based on migrants' origin and, often more implicitly, their ethnicity.

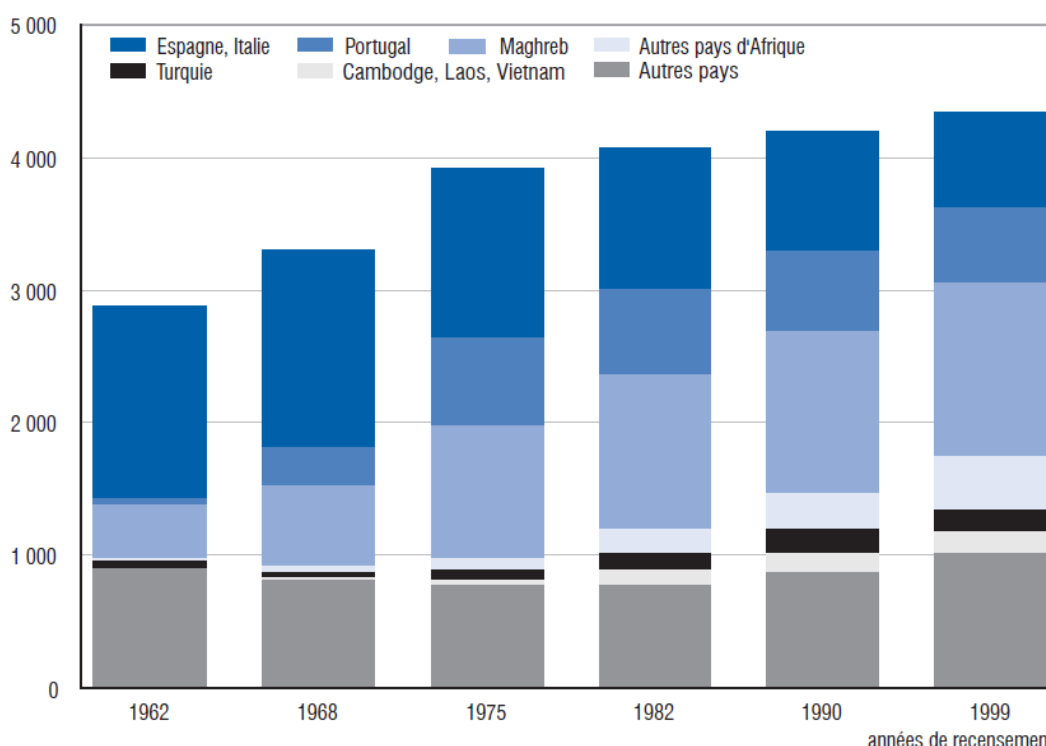
5.2.2 *The French Labour Geography*

Around 1.5 million foreign individuals accounted for 5.8 per cent of the workforce in France in 2009 (OECD 2011). The smaller share in comparison with Germany is arguably due to easier historical naturalisation practices and *ius solis* citizenship in France which allowed more foreign residents and their children to become French, even though restrictions throughout the 1990s and 2000s have changed the liberal politico-legal integration model (Hargreaves 2007; Huddleston and Niessen 2011). The ethnic composition of registered foreign residents in France (figure 5.3), even though unfortunately drawing on older data, displays striking differences compared to Germany as it reveals a less European and strong post-colonial pattern. Residents of North African descent are the largest minority group living in France; according to Eurostat data Algerians and Moroccans have been most numerous in 2005 (MIPEX 2011). Figure 5.3 also indicates a growing South-East-Asian and Sub-Saharan African resident population. The general picture is one of increasing relevance of worker from former colonial territories in the French labour geography and a decline of the traditionally European workforce from Spain, Italy and Portugal which was targeted with the French guest-worker scheme after the Second World War.

Past political recruitment decisions are still traceable in today's labour geography which offers a unique testimony of a changing geopolitical order in French (labour) migration. Demographic shortages stemming from losses in the male population in several wars and low internal migration dynamics singled out immigration as recruitment strategy as early as in the mid 19th century (Freedman 2004; Hollifield 2004b; Weil 2005). The first guest-worker contracts were signed much earlier than elsewhere, before the First World War, and an agency institutionalised foreign worker recruitment from 1920 onwards (see chronological overview in table A5). The French government tried to respond to continuously high labour demand by opening official

routes for migrant workers with a 1945 decree (*Ordonnance*), and charging the recruitment agency with the monopoly of admitting foreign workers (Weil 2005). In practice, public recruitment procedures were undermined by companies' acute demands for workers and the agency mainly acted as a 'clearing house' for already informally recruited workers (Hollifield 2004: 189). This economically-driven 'laissez-faire approach' to recruitment (Hargreaves 2007) provoked large increases in annual admissions with peaks in the mid 1950s, mid 1960s and an absolute peak in 1971 when almost 180,000 newcomers were counted (figure 5.4).

Figure 5.3: Origin of Foreign Residents in France (in thousands, per year of census)



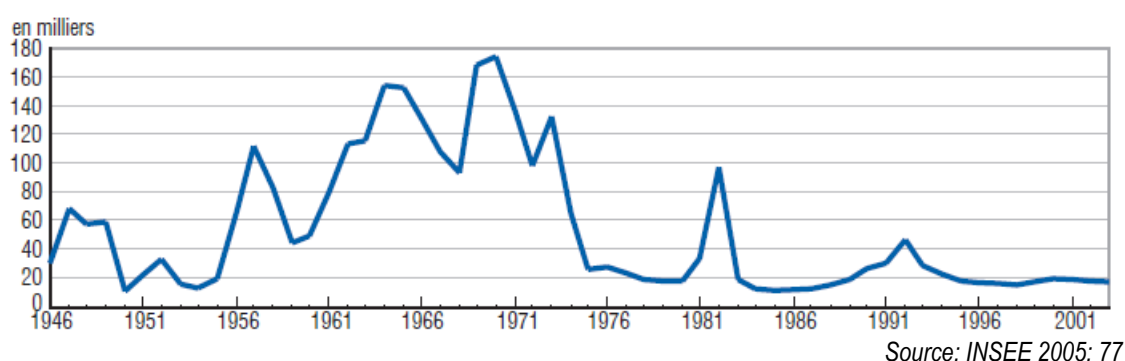
Source: INSEE 2005: 49

The economic utility focus was, however, always accompanied by ethno-cultural selection hierarchies in France (Spire 2005, 2007). Before World War 2, a migrant's anticipated ability to assimilate easily (*étrangers assimilable*) into the French society, nation and army was key to their admission (Weil 2005). While the *Ordonnance* laws did not comprise official country-reserved shares for entries, an ethnic hierarchy of recruited newcomers had been invoked informally. Foreigners were selected⁴⁸ 'à la carte' (Spire 2005) under the discretion of prefectural decision-makers and with internal presidential support. Motivated by ideals of easy integration of

⁴⁸ The institutionalisation of this hierarchy has been quite visible with installations of ONI offices in Milan rather than Istanbul or Rabat, for instance (Weil 2005: 83).

foreigners of the same race and confession, the hierarchy ranged Catholics of white European descent (Italians mainly, later Spaniards, Portuguese, Belgium and Polish) higher than Black and Muslim descendants of French colonies (Hargreaves 2007). Bilateral recruitment agreements with several European countries institutionalised this selectivity by origin (table A5), and settlement patterns mirror an ethnically biased economic recruitment policy: Spanish, Italian and Portuguese workers represented around half of all foreign residents until the suspension of recruitment in 1974 (figure 5.3). The implicit exclusion of non-European workers seems to be a more general pattern in European guest-worker recruitment and raises questions about racially motivated labour selectivity (Hansen and Jonsson 2011; Schönwälder 2004).

Figure 5.4: Permanent and Provisional Work Permit Entries in France (1946-2001, in thousands)



Only when the European pool of labour could no longer satisfy unaltered labour demand did the French government switch to recruiting Tunisians and Moroccans. The *Maghrebin* share of the foreign population grew to become the largest single category by 1982 (figure 5.3). This is regardless of the government's attempts to counterbalance flows from former colonies by attracting more Italians, for instance (Joppke 2005b; Spire 2005). Yet, the simultaneity of high labour demands and decolonisation in the 1960s rendered the preferred ethnic selectivity approach empirically impractical. Special post-colonial ties, linguistic and cultural proximity (*Francophonie*) fuelled inflows from former colonies after the 1960s. Algerians, for instance, benefitted from free movement as descendants of a French overseas region until Algerian Independence in 1962, and with some limitations preserved this right up to date. Some 180,000 Algerian workers, many in circular manner, formed a large pool of workers in the French labour market between 1949 and 1955 (Weil 2005: 84). Algerians have accounted for between 11.6 and 14.8 per cent of all foreign residents in France since the 1960s, and that they even replaced Spaniards and Italians as biggest ethnic minority group in the early 1980s (INSEE 2005). Sub-Saharan inflows commenced in the mid 1960s, after most French colonies such as Senegal, Ivory

Coast or Cameroon gained independence in 1960. In light of these developments, the previously promoted European dominance of inflows and settlement began to cease and flows from decolonised territories gradually acquired more importance, showcasing the empirical relevance of post-colonial relationships.

Migration realities in the post-colonial period triggered political tensions and far-right backlashes. Analyses of policy elite discourse indicate that the decision to suspend labour recruitment at least partially exploited the venue of the economic recession after the oil crisis for ideological reasons (Laurens 2009) linked to the concern about growing post-colonial inflows and ethnic hierarchies. Figure 5.4 indicates a stark drop in annual worker admissions in the mid 1970s, but as elsewhere, a full suspension of recruiting foreign workers has never been applied: sectoral exceptions were allowed in agriculture, medical professions, or for woodcutters. Hence, the principle of selective utilitarian recruitment in labour shortages survived (GISTI 2009b). Adding to that, family reunion continued to be guaranteed after a court ruling in 1975, and many family members entered the labour market, mostly from former colonies. By the time the recruitment ban was introduced in 1974, the immigrant population in France was already at 7.4 per cent of the total population and stabilised around this value (INSEE 2005).

As a response to settlement, increasing post-colonial inflows and the economic downturn in the mid 1970s and 1980s, political tensions and politicisation of migration policy grew. In consequence, an 'ethnicisation' of migration policies unfolded in the aftermath of the recruitment stop and brought the previous more hidden ethnic hierarchies in guest-worker recruitment to the front stage of policy debate (Hargreaves 2007). The administration and part of the public opinion viewed especially North-African Muslims, even when French citizens, as 'enemy within' with pessimistic integration outlooks⁴⁹ (Dine 2008; Hargreaves 2007). Restrictions aimed to discourage new entries and equally encourage exits of these groups. They were later tightened in response to the electoral successes of the far-right and anti-immigrant Front National party (Howard 2009; Schain 2008).

In this hostile and restrictive atmosphere, laws approved in the 1980s and 1990s were mostly concerned with limiting eligibility for work authorisation and access to residence⁵⁰. Legal changes cut back family reunion rights, access to citizenship and access to stable residence status (e.g. abolishment of 10 year permit) (see table A5 and Menz 2009). The highly restrictive

⁴⁹ Hargreaves (2007) traces stigmata of 'hard to integrate' Muslims in public perception, with the term 'immigrant' being problematically linked to ethno-religious features. Dine (2008) criticises 'dishonesties' in the Republican citizenship model in this context: despite their French nationality individuals with Muslim Algerian roots are often criticised for their failure to integrate. Assimilation claims are hence conflated with ethnic-religious hierarchies.

⁵⁰ With some exceptions regarding citizenship and naturalisation rights under left governments

Pasqua laws focused on policing and deterring irregular migration and residence (Hargreaves 2007, Menz 2009). In this context, civic Republican citizenship and assimilation, while officially based on 'colour blindness' and universal political rights, were increasingly filtered through an ethnicised kaleidoscope: the target of most restrictions were North-African Muslim and Black Sub-Saharan migrants whose share at the irregular foreign population is supposed to be especially high, and whose risk of informality has in fact been increased with the 'zero' migration approach after the recruitment stop (Samers 2003; Samers 2010). While being dealt with pragmatically with ex-post regularisation in the post-war recruitment boom, informality has been increasingly criminalised (ibid) and cements marginal positions, often for post-colonial migrants, within the French labour geography.

Yet, the politicisation of migration, post-colonialism and citizenship did not just imply far-right backlashes and legal restrictions; it also triggered vocal protests from migrant advocacy groups, human rights lobbyists, the political left and intellectual circles who were concerned with the French Republican tradition of forging a civic political community⁵¹. This is particularly visible with regard to the situation of informal workers, which has triggered more public debate than elsewhere. Estimates assume between 150,000 and 800,000 *sans-papiers* were living on French territory in the 1990s and 2000s (Aubusson de Carvalay 2008). The share at the overall foreign population is only slightly higher than in Germany (0.46 compared to 0.40 per cent of the total population) and much lower than in Italy (0.62) the UK (1.05) or leading Greece (1.7) (Papadopoulos 2011: 40, table 2.5). While informality of migrant workers does not seem to be more relevant empirically, the amplified politicisation and open contestation of the issue divides the French approach from other cases. For example, detention and expulsion orders for informal workers and residents lead to sit-ins and hunger strikes of the so-called *sans-papiers* in 1996 with large support by the wider civic society, especially trade unions and left parties. Similar protests were repeated several times, the last bigger one in spring 2010 during the *Rue du Regard* house occupation in a prosperous central Parisian arrondissement. The politicisation of informality and wide spread solidarity with informal workers in France contrasts especially the British case where a depoliticised toleration and marginalisation of a de facto larger informal working population is observed (Wilkinson and Craig 2011). The different public perception of informal workers partly explains the occurrence of amnesties⁵² in the 1980s and 1990s as an attempt to reconcile a

⁵¹ Interviewees from trade unions and migrant advice groups have insisted that the political engagement with the principles and values of the French Revolution, predominantly *égalité* with regard to migration and citizenship, are seemingly more central in public debates than similar political principles are elsewhere in Europe. Indeed, public debate on similar issues has a more technocratic flavour and exhibits less pathos in Germany and Britain.

⁵² Several governments tried to cease societal tensions and public protests by partially regularising informal workers. In 1997, for instance, 170,000 migrants benefitted from an amnesty.

distinctly *political* civic citizenship model with informal labour market realities in France; a policy approach that has not been regarded as viable or desirable in Germany or the UK. The political struggle between defending an encompassing citizenship model and the attempt to restrict migrants' rights and cut-off post-colonial relationships is seemingly on-going in France; it is hence likely to shape the context of current labour recruitment policies.

5.2.3 French Reactivation of Labour Admissions

Labour shortages in certain sectors and regions and a sudden and large decline of primary and secondary sector jobs led to an “early and clear concentration on skilled migration” in France and softened the general recruitment stop (Menz 2009: 146). Exceptional admissions in certain sectors always operated, but starting with the *Chèvenement Law* in 1997 and facilitations for high-skilled employees such as scientists, a more systematic and liberal recruitment has been envisaged again, strongly supported by employers (FRA7-BUS). In 1998 an internal administrative circular additionally advised decision-makers on prefecture level to ‘fast-track’ and regard benignly the applications of information technology specialists (Menz 2009: 146). The most encompassing return towards active labour admissions, however, is certainly embodied by the *Sarkozy II Laws* in force since 2006.

Labour migration has been one of the pet subjects of Nicolas Sarkozy's presidency campaign in 2007. Still Home Secretary in 2006, he wanted to “profoundly transform immigration policy in France” (Marthaler 2008: 389). The law's regulatory aim was to select flows according to the country's economic needs (*'immigration choisie'*), rather than having them ‘imposed’ (*'immigration subie'*), mainly by family reunion. This co-occurs with the introduction of an integration contract for newcomers targeted mainly at family members, a further tightening of entry conditions and assimilation requirements for non-work migrant categories, a toughened fight against irregular entries and residence, and the abolishment of automatic access to permanent residence rights after 10 years which also applied to irregular workers (cf Menz 2009). In the aftermath of the 2005 ethnic minority urban riots in Paris, assimilation and ethno-cultural belonging was back on the agenda and layered the professional migration debate. It is worth noting that France does not feature the same demographic decline situation as Germany (see section 5.1), has indeed a growing population, and experiences constantly high unemployment figures. In our analysis, we eventually have to ask how far the economic demand argument carries in French labour admission policies, especially compared to Germany.

Current policies stress that levels of professional work inflows should be boosted to 50 per cent of all entries by 2012 by the help of new labour migration routes, permits and right

regimes, but also by dis-incentivising non-work inflows and settlement (Le Président de la République and Le Premier Ministre 2009). A cabinet document highlights the need to especially favour visa delivery for high-skilled foreigners “who respond to the needs of our labour market” (Comité interministériel de contrôle de l’immigration 2011: 12). There is a strong preoccupation with signalling desirability of professional entries and at the same time transmitting a message of being unwanted (‘subie’) to other resident groups, including family members of French citizens and long-term residents. Like suggested above, the genuine ‘need’ to recruit foreign labour seemingly represents a less obvious policy driver in France than in Germany. The direct attachment of reactivated admission policies to the aim of reducing family reunion flows indicates a conflation of labour migration with targeted citizenship and residence rights restrictions. Bearing in mind that many family members and settled residents predominantly originate from former colonies, the conflation of labour admissions and post-colonial population management seems evident (chapter 8.2 will elaborate this claim).

As a preliminary last step in this conflation of labour recruitment with other migration policy agendas, the *Hortefeux Law* in 2007 introduced a procedure of exceptional regularisation of informal workers on a case to case basis in professions and regions with labour shortages (TCN shortage list). This conflates the management of migrant informality with labour admission policy and signals to residents and newcomers that economically useful workers are welcome, even when previously informal, but that tough measures will apply to all others. Indeed, the aim of increasing professional entries starts to show some effects statistically, with more than 25,000 entries in 2008 compared to only around 18,000 four years earlier (Sénat de la République Française 2010), and family inflows decreasing in the same period. Yet, legal labour migration is far from accounting for half of all inflows. Labour migration policy might hence entail symbolic effects, as it showcases the desirability of high-skilled and skilled labour recruitment (chapter 8.2 for detailed analysis).

The Hortefeux laws also established a second, more comprehensive shortage list for Romanians and Bulgarians to prioritise EU-internal labour recruitment (more in chapter 6). This might indicate the renewed enforcement of the historical ethnic recruitment hierarchy which privileges European workers, especially in coexistence with the tough stance on (post-colonial) family member entries. However, France approached EU free movement of new accession country nationals equally cautiously as Germany: it has applied temporary restrictions to their labour admissions, but equally opened up beneficial entry routes to EU-nationals to gradually phase in full free movement. The subsequent analysis will consider scope and effects of France’s repeated embeddedness in a European labour geography for TCN labour migration routes as well as the French integration and citizenship model and its post-colonial quality.

5.3 Britain: Between Laissez-Faire, Post-colonial Downsizing, and Border Control

The British case is characterised by its diametrically opposite location in capitalist economy and welfare regime literature. As an LME and Liberal residual welfare state, the UK should rely on more market-based logics of border-drawing than France and Germany. At the same time, it shares with France a post-colonial heritage and civic citizenship model which might create some common grounds for migrant selection principles. Yet, the UK's multiculturalist integration regime implies a strong focus on external border control which is unparalleled on the Continent. The British labour geography has been shaped by countervailing philosophies of economic openness and societal control, and conflated with increasingly restrictive and racialised stances towards post-colonial migration. A paradigmatic policy change under New Labour in the 2000s re-constituted a laissez-faire recruitment approach, provoking higher labour inflows than in France and Germany. While recent policy changes in 2010 indicate a shift back to border control, one of the largest estimated informal migrant worker populations in the EU-15 and big inflows from new EU member states challenge control attempts and sustain economic utilitarianism in practice.

5.3.1 *The UK's Location in Regime Theory*

Even though the US served as epistemic example of LME in Hall and Soskice's typology, the UK has also often been associated with market-based modes of economic coordination and been labelled as 'market capitalism' (Clasen 2005; Schmidt 2002). According to Schmidt, the British state acts as 'liberal arbiter' in support of economically-driven demand. Economic pulling horses are the City of London with its high-end financial and insurance services, and sectors relying on radical innovation such as biotechnology, software development or telecommunications. These require more generic and transferable skills responsive to spontaneous strategy shifts. But UK companies have also competed well in sectors with low skill requirements and lower technological investment needs, such as foods, beverages and tobacco (Schmidt 2002: 132). Moreover, the British labour market has been deregulated in the Thatcher era and bears crucial elements of the LME 'hire-and-fire' philosophy (Estevez-Abe, Iversen et al. 2001; Schmidt 2002). British market capitalism might imply a focus on generic and lower skills in recruitment (Menz 2009). It should trigger a more liberal approach towards new entries as the deregulated labour market creates less long term employment commitments, allows high turnovers, and does not entail far-reaching social entitlements.

Despite its Beveridgean⁵³ tradition the UK has developed into one of the most liberal market-based welfare systems in the European Union under the influence of economic recessions, the Thatcher governments' turn towards monetarism, as well as New Labour's 'Third Way' (Rhodes 2000; Schmidt 2002; Taylor-Gooby, Larsen et al. 2004). The Liberal residual welfare state model of the UK has further been underpinned by stronger shifts towards welfare-to-work than in Continental Europe, with a 'competitive individualist ethos' (Dean 2007: 586; Peck 2001). These logics might additionally underpin a liberal labour admission approach, as labour market participation of migrants creates no direct entitlements to benefits – indeed with recorded success in terms of migrant workers' labour market integration (Koopmans 2010). However, the tax-funding of means-tested benefits under a residual notion of social policy also tends to incite fiercer eligibility debates than social insurance or universalism logics (van Oorschot, Opielka et al. 2008). We might expect welfare-chauvinist responses to the outlook of potentially unemployed foreign workers, even though recent research does not find a significant trade-off between welfare and multiculturalism in Britain (Evans 2006).

Similarly to France, the UK has followed a civic citizenship pathway (chapter 3). Selection by ethnic origin contradicts the civic integration principles, yet, special ties to former colonies might prevail nonetheless with implications for TCN labour admission policies. In sharp difference to France, lastly, the British multiculturalist integration approach has supported cultural and ethnic differences; it has aimed to sustain 'moral public order' and social cohesion through managing internal race relations and group rights (Favell 2001). A pragmatic policy emphasis on public order might, however, backfire in a restrictive way when social cohesion and order are perceived to be under threat. Favell's work has shown that tough control at the outer borders has served as key prerequisite for a liberal integration and citizenship approach inside the UK. This border control focus, however, contradicts the liberal expectations derived from VoC accounts. In effect, British labour migration policy has oscillated between economic laissez-fairism and societal closure, with most far-reaching implications for the rights of post-colonial and informal workers.

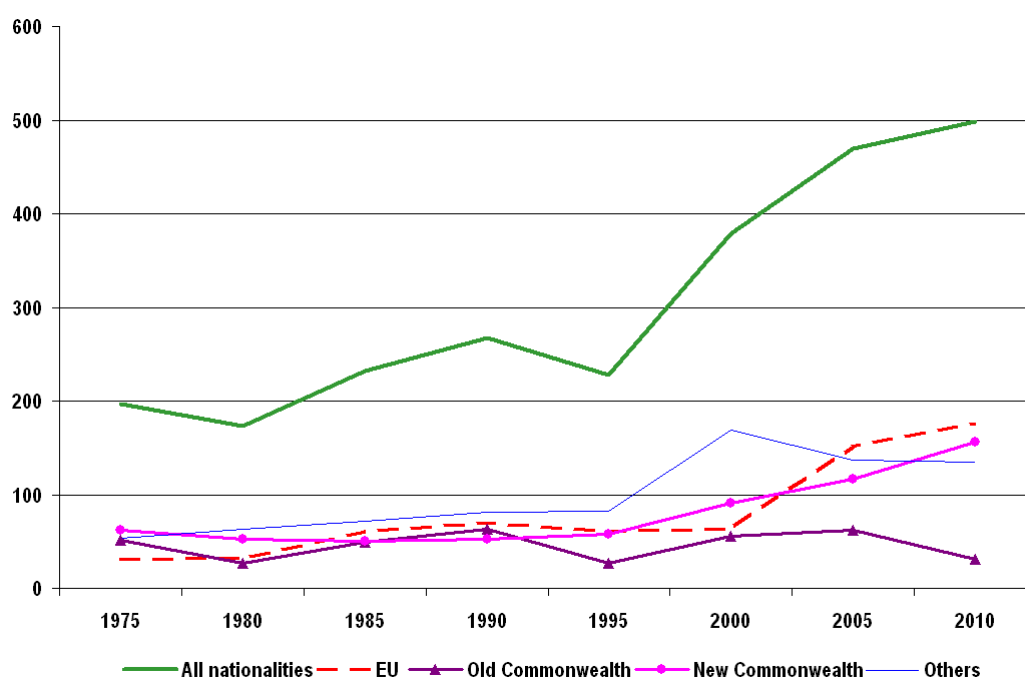
5.3.2 The British Labour Geography

In 2009, 2.8 million foreigners were part of the workforce in Britain, accounting for an 8 per cent share (OECD 2011). According to recent Eurostat data, the largest minority groups were Indians, US Americans and Pakistanis in 2008 (Huddleston and Niessen 2011). As in the French case,

⁵³ universal health care system, Keynesian social-liberal post-War welfare settlement based on full employment

post-colonial bonds continue to shape the British labour geography, with entries from the Old Commonwealth (Canada, Australia, New Zealand and South Africa), New Commonwealth (mainly the Indian subcontinent and some Sub-Saharan African regions), and the United States (main 'other' inflow) being dominant throughout the last 40 years (figure 5.5; cf Office for National Statistics 2008). Especially entries from the Indian subcontinent and Africa have increased since the mid 1990s, while the relevance of Old Commonwealth inflows decreased. These post-colonial dynamics have been accompanied by considerably higher numbers of EU newcomers, especially in the new Millennium⁵⁴. The composition of the UK's foreign labour force has to be understood in relation to its changing geopolitical embeddedness in post-colonial as well as the European labour market, related political decisions in migration policy, and, in contrast to France and Germany, specific migration dynamics in a liberal labour market and welfare state.

Figure 5.5: Migrant Inflows into the UK by Region of Origin (1975-2010, in thousands)



Source: *International Passenger Survey* (Office for National Statistics 2008, 2011), including non-work inflows

Before World War 2, Britain featured a different demographic and labour-market situation than France and Germany and did not need to recruit foreign labour on balance (Schain 2008: 142). Until the 1960s the UK has relied on three sources of 'internal' migration: arrivals from

⁵⁴ Nationals from the A8 and A2 would have been considered 'others' before 2004/2007 of course, which partly explains the dynamics within statistics in figure 5.5.

Ireland, returns of British emigrants from the former colonies, and new entries from the Commonwealth. None of these newcomers were considered 'foreign' and they were exempted from the work permit system. This liberal phase had allowed 'almost uncontrolled' entries (Düvell 2007) in which economic interests were conflated with the fulfilment of perceived moral obligations stemming from the imperial past. Commonwealth immigration was characterised by mass entries mainly from the Black Caribbean (late 1940s and peaking in the 1950s), and Indian and Asian immigration since the late 1950s. Net immigration from the New Commonwealth to the UK between 1953 and 1962 is estimated at 485,000 with West Indian entries accounting for almost half of all entries and Indian and Pakistani migration for around 15 per cent approximately (Layton-Henry 2004: 302). The UK government viewed labour entries of 'British subjects' benignly and highlighted cultural and linguistic links within the Commonwealth; policy-makers at the time "imbued a profound sense of imperial obligation and noblesse oblige" (Hansen, R. 2000: 245). Simultaneously, the emerging multicultural citizenship approach emphasised newcomers' right to be different, as long as moral public order was maintained (Favell 2001).

Some sectors have quite deliberately drawn on the colonial labour pool: the Colonial Office imported nurses in the late 1940s to staff the newly founded NHS and has thereby created what Solano and Rafferty (2007: 1055) call an 'imperial labour market for nurses'. The utilitarian 'drive for labour' clearly exploited the imperial labour geography and left traces in the composition of the foreign workforce to date (Wilkinson and Craig 2011). Yet, just as in France, studies also evidence hidden ethnicised recruitment hierarchies with a clear preference for white European or Old Commonwealth workers over black workers from New Commonwealth territories (McDowell 2003; Schain 2008). Increasing concern about race relations⁵⁵ and racial recruitment hierarchies have fuelled a restrictive approach to migration and citizenship since the early 1960s. The Commonwealth Immigration Act (1962) introduced a work entry voucher system and quotas for non-UK born Commonwealth citizens without a British passport. This created an unprecedented distinction between an inner core of British citizens by birth or by passport, and a dubious category of Commonwealth citizens. While not being counted as aliens, free movement rights of the latter were linked to their economic utility and only those working in a shortage profession could enter. Later acts solidified the distinction between UK and Commonwealth citizens, turned the latter into aliens eventually (Immigration Act in 1971 and British Nationality Act in 1981, table A6), and restricted their access to work and residence further (cf. Schain 2008).

⁵⁵ While the notion of 'race' is contested in other contexts (in Germany it implies connotations to Nazi regime and Holocaust), in Britain, 'race relations' embrace real or perceived differences between ethnic groups and aims to improve their relationship to each other, retaining political relevance to date.

These policy trends have been interpreted as 'post-colonial downsizing' (Geddes 2003b), an attempt to surmount moral obligations towards the former empire and to re-define Britishness in more exclusive ways. On the one hand, downsizing and tougher entry control served as pragmatic response to growing concerns about social cohesion and public order – such as race riots – and established a link between 'good race relations' internally and strict entry control externally as two sides of the multiculturalist coin (Favell 2001). On the other hand, downsizing was filtered through a racialised lens (Layton-Henry 2004). For example, the introduction of the patriality principle in the 1970s implied hidden⁵⁶ ethnic selection principles, favouring family reunion of (white) Commonwealth migrants over (black) New Commonwealth nationals. The Thatcher government further restricted entry and settlement options in the 1980s (limits to family reunion and reduction of work permit numbers).

Eventually, while the UK remains among the most liberal citizenship regimes, restrictions since the 1960s indicate an increasing control bias and a racialised cut-off of post-colonial links despite the continuous economic utility assigned to migrant workers (Hansen, R. 2000; Joppke 2005b; Layton-Henry 2004). The main difference to French post-colonial governance is the earliness (1960s rather than 1980s and continuing) and ease of British detachment from former colonies. With a view on Favell's (2001) 'philosophies of integration' the pragmatic citizenship and integration policy approach in the UK seemingly precluded public politicisation when restrictions were issued. This is in sharp contrast to the French case, where a political understanding of citizenship has fuelled ongoing public contestation of restrictions which are castigated as an attack on Republican values. Moreover, the UK dealt with decolonisation pragmatically and pro-actively trying to avoid conflict, while France defended its Empire against independence movements longer and more desperately.

The restrictive policy approach since the 1960s has earned the UK the image of 'zero immigration' country (Layton-Henry 2004). Especially the geographical position as an island seemed to allow more effective border controls than elsewhere. Yet, strong economic interests to fill specific labour market gaps continued to matter just like in France and Germany. They facilitated employment of migrant workers in the public sector (mainly NHS), but also the textile and car industries (Geddes 2003b). Consequently, the number of annually issued work permits continued to increase from about 60,000 in 1961 to almost 70,000 in 1971 (Clarke and Salt 2003). Even the recruitment ban of the early 1970s, while resulting in sharp drops of annual admissions, never cut entries back to 'zero' as the rhetoric suggests. The ban on admitting

⁵⁶ While not officially restricting family reunion for nationals of specific descents, the socio-demographic composition of different Commonwealth countries excluded New Commonwealth nationals disproportionately (Layton-Henry 2004).

unskilled and low-skilled foreign workers from outside the European Economic Community came into force in 1972 and mainly hit Commonwealth nationals (who have been considered 'foreign' since the 1971 Immigration Act), while still allowing high-skilled recruitment in general and shortage recruitment from within Europe. Inflows hence remained stable at a lower level (20,000-15,000) in the late 1970s and early 1980s (*ibid*). Indeed, the scope for recruiting high-skilled and skilled labour when economically required has been retained.

Other flows added to the labour pool after recruitment was suspended, indicating replacement dynamics between available entry routes. Family reunion especially from the New Commonwealth augmented after work routes were closed, explaining relatively stable inflows after 1973 (figure 5.5). Still in 2009, eleven per cent of new entries were family-related, which almost equals work-related entries in Tiers 1 and 2 of the points-based system (PBS) (Migration Advisory Committee 2010a: 76). The biggest increase in inflows over the last decade was registered in foreign students, with the associated Tier 4 of the PBS accounting for almost two thirds of all entries in 2009 (*ibid*). The English-speaking and internationally renowned university system in Britain has led to a considerably higher foreign student share than in France or Germany. Especially Chinese student inflows increased rapidly in the new Millennium, not seldom adding to the labour market when overstaying student visas (Shen 2005).

Given asylum restrictions in the largest receiving countries France and Germany, Britain has further gained attractiveness as alternative destination. Even though granting by far less humanitarian protection than France and Germany⁵⁷, a deregulated and less tightly controlled labour market offers plenty of employment opportunities for rejected asylum seekers in Britain. Emerging irregular work flows made border controls 'gappy' and juxtaposed the 'zero migration' rhetoric (Hansen, R. in Layton-Henry 2004). Estimates single out the UK as a much bigger informal migrant labour market than France or Germany, with 17.5 per cent of all foreign workers being supposedly irregular (Papadopoulos 2011). Wilkinson and Craig (2011: 189) claim that the UK's deregulated labour market has fuelled informality: though policy discourse labels irregular migrants as 'unwanted', their economic activity is tolerated. A widely discussed example of this 'wilful negligence' (*ibid*) is the practice of using gangmasters in agriculture or catering to squeeze low profit margins. Mostly informal labourers, often from China, live and work in inhumane conditions, without free movement rights, for very low and often no wages, and under constant threats of being fired, to harvest cheap strawberries and lettuce or cater in London's Chinatown (Brass 2004; Geddes and Scott 2010; Pai 2008).

⁵⁷ The UK granted asylum to roughly 6,600 individuals in 2009, while Germany accepted 37,500 (2008) and France 18,100 (2009) individuals (Huddleston and Niessen 2011).

In a residual welfare state without strong principles of equivalence between economic activity and social rights and, the NHS apart, missing universalist claims to welfare, this economic toleration compounds migrant workers' social exclusion, and fashions their exploitability more profoundly than elsewhere (Sainsbury 2006; Wilkinson and Craig 2011). This seems to confirm the assumption that Liberal welfare states enforce and control labour admissions less tightly, *de facto*. The lack of open politicisation of informality simultaneously offers fewer grounds for regularisations than in France. The less obvious links between informal work and post-colonial migrants might add to a lack of felt obligation towards 'irregulars', as opposed to the French case. More critical voices also suggest that the further marginalisation and criminalisation of informal migrant workers under tough regulations adds to their economic value as vulnerable labourers in a liberal market economy (Anderson 2010). Ultimately, control policies and economic *laissez-fairism* seemingly coincide rather than representing mutually exclusive policy options.

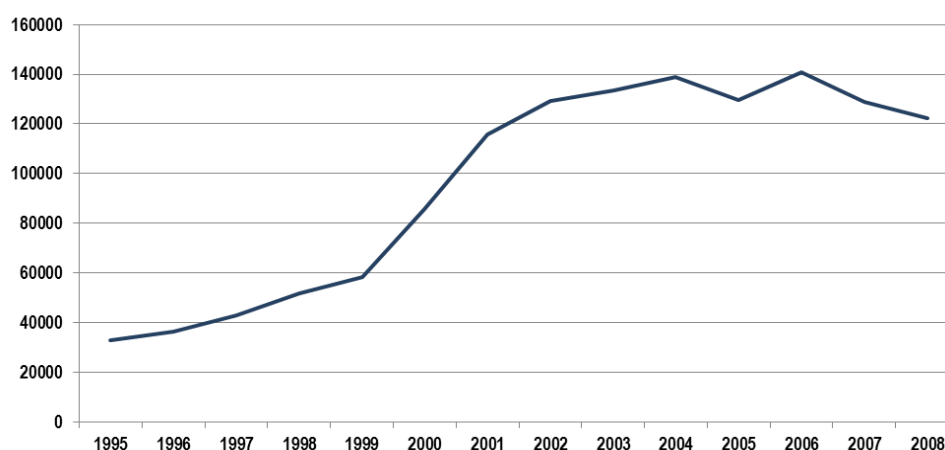
5.3.3 *British Reactivation of Labour Admissions*

The legal entry of foreign workers has been liberalised considerably in the UK in the new Millennium, more than elsewhere in Western Europe, to support economic growth and fill specific shortages in the labour market. Given the different demographic situation, with the UK working-age population growing rather than declining, the policy shift seems to rest on different rationales than in Germany. Of course, labour market mismatches can fuel shortages despite a large pool of domestic workers, but the argument in favour of labour recruitment initially concentrated more on endogenous growth assumptions and human capital theory than elsewhere. Significant shifts in labour migration policies followed from this stance, especially the establishment of supply-side driven recruitment mechanisms and the introduction of a points-based system (Düvell 2007; Layton-Henry 2004; Menz 2009; Schain 2008; Somerville 2007).

While some facilitation for highly-skilled individuals had already been introduced in the earlier 1990s under Conservative supremacy, more considerable changes to the British labour migration system started to surface in 2000. The New Labour government expanded the restrictive work permit system and initiated both a Highly Skilled Migration Programme (HSMP) and a Sectors-Based Scheme (SBS) for lower-skilled migration. The former attracted mainly finance, IT specialist, medical professionals and business managers; the latter was targeted at substantial shortages in food processing and hospitality. The number of HSMP admissions increased rapidly from initial low levels to peak at over 28,000 in 2007; SBS approval numbers remained lower than the projected annual quota (see Clarke and Salt 2003; Salt 2009). By far the biggest entry channel, however, was the work permits system for skilled workers in shortage

professions⁵⁸. Shortages in some sectors and the facilitation of high-skilled entries have hence jointly led to substantial increases in the overall annual number of new work permits (figure 5.6).

Figure 5.6: Work Permits issued in the UK (1995-2008)



Source: Salt 2009: table 5.1, p. 92

In 2008, the government consolidated all labour admission channels into a points-based system (PBS). Then Home Secretary Charles Clarke (Home Office 2006: foreword) described this as “the most significant change to managed migration in the last 40 years” to set out more transparently who is allowed to come and work in the UK and under what conditions. Prime Minister Tony Blair regarded labour migration as “essential for our continued prosperity” (Home Office 2005: 5). The spirit of the PBS was initially very welcoming towards TCN workers, and recruited especially high-skilled individuals regardless of the domestic labour market situation to boost growth (supply-driven). The subsequent chapter will delineate the selection mechanisms and underpinning rationales of the PBS in more detail.

The relative openness to migration from the new EU member states after the 2004 accession has left its traces on the British labour geography. As one of only three EU-15 countries (with Ireland and Sweden) the UK has granted A8-nationals immediate free labour movement. The associated Worker Registration Scheme counted almost 950,000 entries from May 2004 to March 2009, with most newcomers being Polish. While numbers of A8 labour entries initially rose sharply, estimates indicate drops in 2007 and 2008 (Office for National Statistics 2009). Unlike A8-nationals, Bulgarian and Romanians need a permission to work in the UK (i.e.

⁵⁸ of an annual average of almost 125,000 newcomers between 2000 and 2008, around 84,000 were skilled entries

accession worker card) unless they are highly skilled. Lower skilled jobs have eventually been withdrawn from the SBS in July 2005, with A8-nationals, Bulgarians and Romanians exclusively filling respective shortages. Trade-offs between a liberal approach towards free movement and (reduced) entry options for TCN workers become evident in this respect and will have to be explored and compared to the other two cases in more depth in the subsequent analysis.

Policy outcomes are numerically impressive compared to Germany and France: from 1999 to 2008 almost 800,000 work permits were issued (figure 5.6). Very much in contrast to France, work and studies (38 and 32 per cent, respectively) were the two single most important motives for migration in the UK in 2008, by far outnumbering family motives (16 per cent) (Office for National Statistics 2009). The comparatively higher absolute and relative numbers of newcomers in the 2000s seems to reflect a liberal recruitment approach in line with the UK's character as LME and deregulated labour market, creating a nationally distinct analytical context.

Recent policy developments, however – or maybe rather eventually –, counteract the liberal economic approach. Fuelled by the economic downturn in 2009 and the inauguration of a Conservative-led government with a restrictive migration agenda in 2010, 'British jobs for British workers'⁵⁹ and entry restrictions have crawled back on the agenda. Low skilled migration is currently suspended and entry criteria in the PBS were raised in 2010. With the Conservative Home Secretary Theresa May announcing a reduction of net inflows to the 'tens of thousands not hundreds of thousands' until the end of the current parliamentary term, limitations such as an annual cap for high-skilled and skilled entries have been introduced in April 2011 (UK Border Agency 2010). These changes represent a turn-around from New Labour's economically driven laissez-faire approach – not dissimilar to the immediate post-War period – back to a control bias. The oscillation between economic liberalism and tough border controls over time – with a recent re-emphasis on control – indicates the dynamism of selective policy arrangements. In different points of time, policy-makers in the UK have focused either on economic rationales of labour recruitment in support of LME logics of capitalist coordination, or on tough external control targets underpinning the philosophy of public order and successful multiculturalism inside. However, the empirical prevalence of the informal labour market suggests that any control backlash might be more symbolic than empirically enforced.

⁵⁹ Then Prime Minister Gordon Brown's pledge of 'British jobs for British workers' was used in protests at Britain's third-largest oil refinery at Killingholme in 2009 when *Total UK* employed Italian and Portuguese workers to carry out maintenance work at the refinery.

5.4 Conclusion: Common Policy Shift in Variable Regimes and Labour Geographies?

The case profiling in this chapter has carved out the interpretive context for the subsequent comparative policy analysis, thereby adhering to an in-depth and case-sensitive research design (chapter 4). I briefly located each case in the regime literatures and thus specified idealtypical assumptions with regard to border-drawing sites and emerging classification logics from chapter 3. I then distilled key characteristics of the countries' respective labour geographies as backdrop for the subsequent interpretation of empirical findings. This profiling exposed both similarities and case specificities. All three cases share a utilitarian approach in recruiting foreign workers to fill shortages, especially after World War 2. This logic has survived throughout the 20th century, continued on smaller scale even after a common recruitment ban in the 1970s, and was widely revitalised in the late 1990s and early 2000s. Past labour migrations – be it in form of guest-worker recruitment in France and Germany or 'internal' imperial migrations in Britain – still shape current geographies to considerable extent. We moreover find a shared pattern of ethnic selectivity within the economically-driven labour admissions which has aimed at limiting labour inflows to fellow Europeans. This reflects a wider conflation of economically liberal and ethnicised definitions of belonging in Europe (Hansen 2000).

Labour geographies also feature country-specific markers relating to their historical emergence and political governance. In lack of post-colonial ties German governments shaped a deliberately European labour geography. Yet, concern about the socio-economic integration of settled guest-workers (mainly Turkish), but also large inflows of asylum seekers who have been excluded from labour market participation, is likely to spur 'lessons learned' in current admissions. The EU's changing geopolitical disposition has lately transformed Germany's mostly Eastern European informal workforce into regular free movers. By contrast, the French and British labour geographies continuously reflect colonialism, with a strong conflation of the informal labour market with post-colonial descent in France. An ongoing struggle of redefining French belonging across several related policy fields seems to underpin ethnic hierarchies of desirable workers – in continuity with past policies. In Britain, new flows, especially of students and informal workers from China through gangmaster systems have recently seized the country's prime positions as English-speaking university system with a largely deregulated labour market. The political decision to freely admit A8-workers further provoked a European counterbalancing of post-colonial family inflows in the new Millennium, with the high numbers of overall entries has recently causing restrictions. Adding to the variable embeddedness in European and other labour exchanges, the perception of demographic pressure in Germany and the lack thereof in the other two cases shapes country-specific contexts of current labour admission policies, and question the reach of a notionally common policy shift toward reactivating foreign labour recruitment in Europe.

6 Mapping Migrant Classification: Policies, Tools, Principles

Stanford economist Thomas Sowell is reported to have said “Capitalism knows only one colour: that colour is green; all else is necessarily subservient to it, hence, race, gender and ethnicity cannot be considered within it.” This is certainly not true of foreign labour recruitment as growth strategy of capitalist national economies. Chapter 2 has argued that the very operation of border regimes, including the selection of people by origin, jeopardises visions of complete subversion to capitalist economic labour demand and push-and-pull mechanisms across the globe. Chapter 3 further claimed that nation-states define borders for labour migrants in multiple ways, and, with a focus on interactions of border-drawing institutions, theorised that this activity is by no means exclusively tailored around the colour of the currency. Case reviews in the previous chapter have started to add empirical substance to this claim and highlighted the various political, economic and social legacies and dynamics that forge the context of labour migration policy in comparative perspective. This first findings chapter will answer the first of the sub-questions posed in this thesis: how do labour admission regimes *de jure* classify migrant workers? Before being able to analyse meanings of classifications (R2) and their references to economic, social and politico-legal border-drawing (R3) in order to ultimately develop thorough comparative insights in labour migration management, we need to *map classification* in each country. The present chapter does this job by identifying main classifications made in admission policies and rendering them the starting point for an in-depth IPA in chapters 7 and 8.

I draw on qualitative document analysis of legal texts and recent policy documents in TCN labour admission policy, including all relevant laws that have been operative during the research period (chapter 4 and table A2). This concentrates on key legislation including amendments up to January 2010 in Germany, up to May 2010 France and up to April 2011 in the UK to match timing of fieldwork and interviewing in each case (chapter 4). In order to identify classification principles and thoroughly map classification regimes, the sections of each country chapter address three communal points: current *de jure* policy tools, selection mechanisms and principles, and the rights attached to different statuses of selection. What permits can migrants access, under which conditions and requirements, and which rights are attached to the different permits⁶⁰? The engagement with these inquiries has fed *classification maps*, a visual tool that I have specifically designed and systematically populated with empirical data to offer an analytical overview of TCN labour admission procedures. These maps trace each possible selection step

⁶⁰ The analysis concentrates on main employment routes and excludes detailed consideration of categories such as working holiday makers, self-employed, or permit-free entries of sportspersons, ministers of religion etc.

and the pathways to different permits and identify main selection criteria and by extension classification principles per country. Sections within each country case are structured according to the main selection principles which classification maps expose, so the reader is advised to consult these maps for overview purposes and easier navigation through the legal infrastructure of labour migration in the chapter. The final section compares classification maps and their implications in terms of border-drawing and summarises preliminary findings of the chapter in a comparative table. The commonalities and differences established in this last section trigger in-depth interpretive analysis and at the same time impose a specific structure for chapters 7 and 8.

6.1 Mapping Migrant Classification in Germany

“Die Zulassung ausländischer Beschäftigter orientiert sich an den Erfordernissen des Wirtschaftsstandortes Deutschland unter Berücksichtigung der Verhältnisse auf dem Arbeitsmarkt und dem Erfordernis, die Arbeitslosigkeit wirksam zu bekämpfen.”⁶¹

(§ 18 German Migration Law)

The previous chapter indicated that the German *Zuwanderungsgesetz* has been interpreted as a symbolic shift towards active migrant worker recruitment, integration and residence management partly enforced by a perception of strong demographic pressure (Green 2007; Triadafilopoulos and Schönwälder 2006). The legal sound bite above alludes to a range of different agendas that feed into labour migration policy, from meeting the needs of the German national economy to protecting the domestic labour market against and dealing with unemployment. How then does the Federal Republic select foreign labour force? The mapping relies on data from policy documents issued by the government and responsible Ministries, but mainly draws on the legal codification laid down in the German Migration Law in 2005, associated decrees (such as the employment decree, *Beschäftigungsverordnung*) and legal amendments up to January 2010 (table A2). The following account concentrates on main selection mechanisms and border-drawing principles and offers illustrative examples to draw out main tendencies and mechanisms of border-drawing.

6.1.1 Skill Level Distinction and Resident Labour Market Test

A scrutiny of the current German legal infrastructure for TCN migrant labour admissions reveals a clear distinction between high-skilled entries, skilled and unskilled entries and an associated

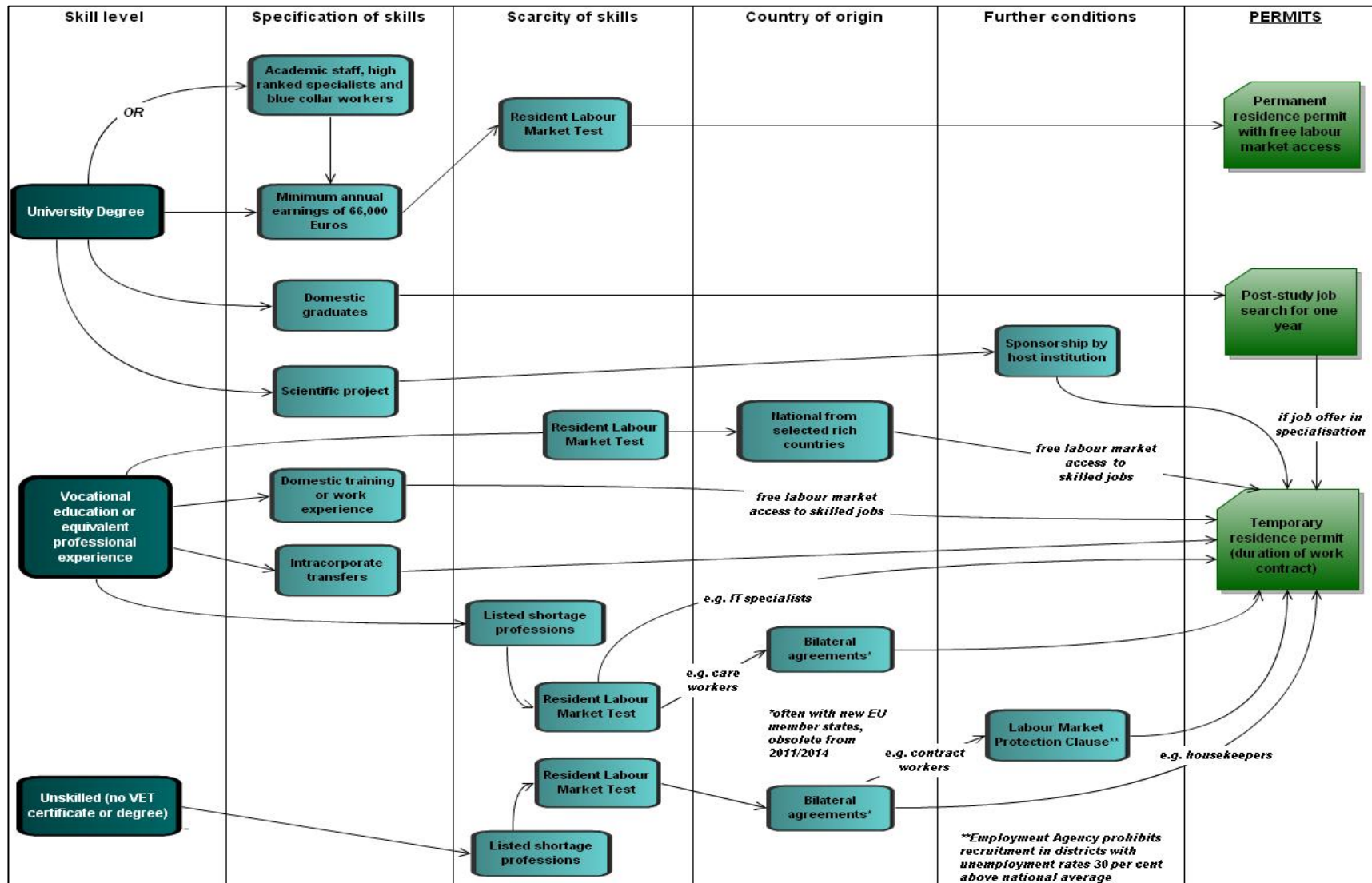
⁶¹ Translation from German: “The admission of foreign workers is directed by the demands of the German business location, all while considering labour market conditions and the need to fight unemployment effectively.”

differential classification of migrant workers. Different sections and paragraphs of the law define different skill levels⁶² to then deal with them under different provisions and permits. German legislation defines high-skilled jobs as 'leading' graduate positions in academia and elsewhere, skilled jobs require an equivalent of a three year German vocational training, and every other job is considered unskilled. This distinction is tied to different selection criteria and differential residence and labour market inclusion pathways (see German classification map, figure 6.1).

Since the recruitment stop migrant workers in Germany have been admitted almost exclusively through a residence labour market test (RLMT) and only if a bilateral agreements with sending countries allowed for it. The RLMT logic governs virtually all labour admission procedure to date, also most high-skilled entry routes. The dominance of the RLMT in Germany reflects an attempt to combine economic objectives related to growth and competitiveness with the protection of domestic workforce: The 2005 Migration Law states that "the admission of foreign employees pursues the demands of Germany as an economic location, taking into account the labour market situation and the request to fight unemployment effectively" (Bundesrepublik Deutschland 2004: , translation R.P.). This leads to a wide-spread principle of recruitment into shortages only and populates the selection principle of scarcity of skills. A valid job offer is the prerequisite of all labour admissions, there is no supply-driven category for newcomers. In many cases, the demand-led shortage principle is strengthened by an additional procedural involvement of the Federal Employment Agency (*Bundesagentur für Arbeit*, BA) which not only supervises the RLMT, but also often needs to consent recruitment decisions before the local Foreigner Bureaus can issue work-residence permits. It is the BA's job to take the general employment situation into account and block admission if German unemployment is high in a particular sector, region or generally. Exceptions from this rule include predefined shortage professions, bilateral agreements or additional laws on particular skill targets. High-skilled admissions, scientists, IT specialists and domestic graduates do not need BA consent. This alludes to several classification principles that we can draw out in more detail.

⁶² When I use the terms high-skilled, skilled and unskilled or lower-skilled I refer to the categorisation in legislation and do not mean to transmit any normative claim as to the 'actual' skill level of a migrant worker or a job. The distinctions are being problematised in the IPA of chapters 7 and 8 and critically discussed in chapter 9.

Figure 6.1: Classifications of Labour Migrants in German Legislation



6.1.2 Favouring Domestic Qualifications

The Migration Act and subsequent amendments introduced significant exceptions to the general domestic preference and employment protection principle. This regards graduates from German universities and those who were trained in the German vocational education system or acquired equivalent skilled work experience in Germany. An amendment of the Migration Law (*Arbeitsmarktsteuerungsgesetz*) abolished the RLMT for graduates from German universities in 2009 (BMAS 2008b). They can look for a job in their academic speciality for up to a year – a temporary exception from the job offer requirement. If they successfully find a job, they can access it without subordination to domestic and EU workers. Graduate applicants can switch their status from job-searching student to skilled worker with a temporary residence permit. Moreover, migrants with German or equivalent vocational education and training and graduates from German schools abroad can also accept a job offer on equal footing with Germans and EU-nationals. This needs to be in a VET-skilled profession, at minimum, and the Federal Employment Agency can veto their recruitment if unemployment is higher than average in the district under consideration (BMAS 2008b; Bundesrepublik Deutschland 2008).

These provisions also benefit tolerated residents⁶³: if they have worked in Germany for at least three years as a skilled worker in a job that requires a three year vocational education, without interruptions and without relying on social benefits in at least the last year of employment, they can legalise their status and switch to the employee category. Applicants also have to demonstrate sufficient German language skills, sufficient housing for themselves and their dependents, and a clean criminal record. Foreign residents' skills, expected utility for the labour market, but also demonstrated integration capacity in terms of language and social inclusion can thus help them overcome an insecure residence status and advance their position in the German labour market. Provisions discussed so far speak of a beneficial treatment of TCNs with domestic qualifications and work experience. The German labour migration regime displays a strong consideration of successful educational and economic inclusion of foreign residents in Germany as well as of Germanophone workers abroad with qualified ties to Germany. This recalls theoretical discussions both around the notion of earned entitlements in the contribution-based Bismarckian welfare state and earned models of citizenship and integration more generally.

⁶³ *Duldung* in German law refers to the temporary omission of expulsion orders for asylum seekers on German territory who have been rejected as refugees but cannot be expelled due to the unstable situation in their home country, for example. While *Duldung* is not a secure residence status and expulsion can be executed at any time, many *Geduldete* have resided in Germany for several years, go to schools, do training etc. and are de facto long-term residents. Some recent policy changes have targeted the improvement of their status, including their access to skilled jobs and secure residence.

6.1.3 Beneficial Treatment of High-skilled Workers

Even though most labour migrants are subordinated to German and EU worker availability; the RLMT procedure is entangled with further selection procedures which lead to differential work and residence statuses for migrants, predominantly organised around different skill levels. Let us concentrate on the high-skilled route first. One of the novelties of the Migration Act in 2005 has been the introduction of a permanent residence permit for high-skilled individuals (*Niederlassungserlaubnis*, §19 Migration Law). This allows a small number of highly qualified foreigners to settle immediately, without integration requirements (e.g. language classes), and with full access to the German labour market. It clearly establishes a categorisation of rights by skill level. By contrast, standard temporary residence permits issued to everyone else are for designated jobs only, fixed term, and only offer free labour market access after three years of social insurance contributions in regular employment. The entitlement to immediate settlement with full labour mobility is indeed one of the most beneficial rights regimes for high-skilled workers worldwide⁶⁴. The comparably easy access to settlement pathways from first admission for high-skilled professionals has a potential to off-set the comparatively strict German naturalisation and citizenship regime. In its departure from temporary permits that enforce circularity, it also represents a paradigm shift from former guest-worker approaches.

Table 6.2: TCN Work Inflows per Type of Permit and Entry Route in Germany

	2006	2007	2008	2009
Permanent work-residence permit (§19 AufenthG)	80	151	157	169
Temporary work-residence permit (§18 AufenthG)	29466	28761	29141	25053
Scientists and researchers permit (§20 AufenthG) <i>since 2007</i>	-	-	64	142
Post-study work switch to employment (§27/3 BeschV)	2742	4421	5935	4820
IT-specialists (§27/2 BeschV)	2845	3411	3906	2465
Other specialist graduates (§27/2 BeschV)	1845	2205	2710	2418
Permit for special nationalities (§34 BeschV)	3757	4821	5617	4724
Intra-corporate transfers (§31 BeschV)	4783	5419	5655	4429

Source: BAMF 2011; Parusel and Schneider 2010

⁶⁴ The recent MIPEX index acknowledges access to a stable status with a long-lasting permit in that regard and ranks German long-term residence rights among the more favourable worldwide. Denizenship in Germany is considered more favourable than in the UK where migrant workers have to rely on temporary permits for longer and face stricter eligibility conditions for a indefinite leave to remain (MIPEX data based on: Huddleston and Niessen 2011)

But which selection criteria apply to high-skilled individuals for obtaining the beneficial permanent residence permit? Legislation concentrates on scientists with special knowledge in their field, high ranked academic teaching and research staff and blue collar specialists outside universities who will earn at least 66,000 Euros annually in the offered job in 2010 (Bundesministerium des Innern 2004: , paragraph 19/2). The earnings threshold has been lowered from a sum of over 80,000 Euros initially⁶⁵. Still, selection by skill level – understood as level of post-graduate qualifications, specialisation, high-level work experience and high earning potential – for the *Niederlassungserlaubnis* is quite strict and only benefits a tiny minority of high-skilled individuals in academia and leading specialist positions (table 6.2).

Moreover, scientists and researches including PhD students that fail to obtain a *Niederlassungserlaubnis* can alternatively at least benefit from RLMT exemption. They can work on a fixed-term project in Germany since 2007, if their host institution has been acknowledged by the Federal Bureau for Migration and Refugees (BAMF) and guarantees to act as a sponsor on behalf of the applicant. Table 6.2 indicates that entries of scientists have been quite limited in numbers so far. Lastly, intra-corporate transfers (ICT) can enter a German leg of their firm without RLMT for specific purposes like installing software or machinery, or training staff to do so. Their residence is fixed for the duration of the project and cannot exceed three years. The project-based nature of these entries means that they are not treated as migrants with settlement pathways, but as globally mobile project professionals. Integration measures such as language courses are also irrelevant for these newcomers.

6.1.4 Selection by Scarcity of Skills

The most common permit issued is the temporary residence permit (*Aufenthaltserlaubnis*) which demands a RLMT of all applicants and hence enforces preference of domestic and EU workers. The law further distinguishes between skilled and unskilled routes towards *Aufenthaltserlaubnis* with quite different selection mechanisms. Of the roughly 25,000 temporary resident permits issued in 2009, 33.5 per cent were in unskilled professions and almost 56 per cent in skilled routes (the rest was employment in the public interest and others) (BAMF 2009b: 78). Apart from the standard application of the RLMT in most cases, the driving selection tool for all skilled and unskilled recruitment is a shortage list issued by the Ministry of Labour which aims to establish labour scarcity (BMAS 2008b; BMWA 2004).

⁶⁵ It now crudely equals the double average wage of German workers, and is calculated with the contribution assessment ceiling of the pension insurance in West Germany (Bundesrepublik Deutschland 2008).

In skilled shortage occupations⁶⁶ (*Fachkräfte*) individual TCN recruitment is possible if the migrant has at least VET-equivalent qualifications applicable to the shortages listed. If a migrant's specific skills profile matches a shortage, they can enter without further selection mechanisms. An example of that are Green Card provisions which the 2005 Act incorporated into the skilled route. This admits specialists with a university degree in IT-related subjects that pass the RLMT without further criteria. This route was extended to encompass other specialist graduates in 2009 as well. Both routes have been equally popular in the late 2000s. Together with domestic graduate employment they account for almost 40 per cent of all temporary residence permits issued in 2009 (table 6.2). Chefs, language teachers and blue collar specialists equally can enter once they displayed matching qualifications and passed the RLMT. Access to skilled jobs without RLMT is enabled for ICT and domestic graduates, as mentioned earlier. Chapters 7 and 8 will discuss how these two routes are drawn into different logics – international competitiveness and earned integration – that work in favour of their more beneficial treatment within the realm of regulating skilled entries.

As unskilled work is per legal definition not skilled in the sense of the German VET schemes, no matching of skill profile and job profile is required. Yet, additional labour market protection tools operate to ensure labour scarcity in wider context of unemployment. A specific clause for contract worker recruitment secures that admissions are blocked if the company wanting to recruit from a third country has reduced employees' contractual working hours (*Kurzarbeit*) or is planning to lay off regular workers. The same applies if the employment district under concern suffers from 30 per cent above average unemployment (BA 2009a: 14f). While the Employment Agency's role to control labour market effects of foreign recruitment seems to be more of a legal formality for high-skilled and most skilled shortage workers, provisions are very detailed, specific and protective with regard to unskilled routes. Adding to the tighter control focus surrounding unskilled labour scarcity claims, circular migration regimes force unskilled workers to leave Germany after a maximum stay of three years. Additionally, the RLMT for unskilled entries is coupled to strict selection by country of origin, which I will consider as classification principle next.

⁶⁶ These include language teachers, chefs-de-cuisine for specialities, university graduates with a recognised degree, IT specialists, graduates of German schools abroad with a recognised university degree or a vocational training, blue collars and skilled specialists in German and German-multinational companies, social workers for foreign families employed by a German service provider, care workers for children, ill or elderly people, intra-corporate exchanges, project workers of multinational companies (BA 2009b).

6.1.5 Selection by Country of Origin

Newcomers whose qualifications do not match at minimum a German VET certificate can enter the labour market only if a shortage list⁶⁷, a bilateral agreement with the sending country and a successfully passed RLMT jointly allow for it. The principle of selection by origin is hence obligatory for unskilled workers. It is important to note that some skilled professions also rely on bilateral recruitment, for instance care-workers are exclusively recruited from Croatia (BA 2009b). For these groups of workers selection by skill level, scarcity of skills, and country of origin is highly intertwined. This recalls a conflation of different border-drawing principles that have already started to be exposed empirically in chapter 5 and more theoretically in chapter 3.

Most bilateral agreements have been intra-EU and regulated A8 labour entries until free movement was fully established in May 2011 (e.g. housekeepers, BA 2009c). This reflects a continuation of the post-Cold War recruitment arrangements which the policy legacy discussion described earlier. Other agreements to date encompass only one extra-EU sending country, for instance seasonal workers from outside the A8 or skilled care workers can only come from Croatia (BA 2009b). These special connections to Croatia in the selection of labour migrants are an interesting issue to be investigated further in interviews. Bilateral agreements also operate for so-called contract workers⁶⁸. Nationals of A8 countries, Turkey, Bosnia, Croatia, Serbia, Macedonia or Kosovo could/can obtain a work-residence permit for two years, even though the Labour Ministry can define annual quotas, and a three years maximum stay is strictly enforced (BA 2009b). We witness a pronounced concentration on EU and European sending countries, which chapter 5 has already indicated statistically (figure 5.1). Agreements moreover seem to draw on pre-existing links with former guest-worker exporters (such as Turkey), but also include ex-Yugoslav countries which fuelled considerable asylum flows to Germany in the 1990s. Historical flows, policy legacies and selection by origin in bilateral labour recruitment overlap in the classification of currently acceptable labour migrants.

In addition to the European character and historical connectivity of bilateral recruitment, nationals of a few selected (rich) countries⁶⁹ are enabled to work in any skilled job with a temporary permit if only they pass the RLMT. This beneficial provision by country of origin – and by default then also by descent from the rich, industrialised, and for the skill level targeted also predominantly white part of the world – is strictly reciprocal and recently benefitted around 3700

⁶⁷ The list for unskilled labour shortages comprises seasonal workers, carneys, Au-pairs, housekeepers, entertainers and vocational trainees (BA 2009b).

⁶⁸ workers recruited by German companies to contribute to a project in Germany for a limited period of time often in the construction sector (*Werkvertragsarbeitnehmer*)

⁶⁹ Andorra, Australia, Israel, Japan, Canada, Monaco, New Zealand, San Marino and the United States

to 5600 workers annually (table 6.2). Chapter 8 will engage with discerning the rationales of this niche of special treatment in German labour migration border-drawing.

6.1.6 Summary of German Classification

What can we conclude on the German case? We find several intersecting principles in labour migration border-drawing. The general rule is strict selection by scarcity with the help of RLMT and consent of the Federal Employment Agency. But the beneficial treatment of high-skilled workers and those with domestic qualifications indicates the importance of selection and differential treatment by skill level and origin of skill. Project-based workers such as scientists and ICT also face less stringent selection procedures. Selection by origin matters for some skilled routes and is facultative for all unskilled entries. We find a marked concentration on European sending countries in bilateral agreements for skilled and unskilled shortage occupations, but also a beneficial treatment of nationals from selected rich countries able to enter any skilled job after a RLMT. In the unskilled realm, the Federal Employment Agency can also link selectivity by scarcity and origin to further labour market protection clauses and cut-off recruitment channels in case of over proportional unemployment.

6.2 Mapping Migrant Classification in France

“Pour répondre aux besoins de recrutement de certains secteurs économiques, la France a souhaité mieux organiser l’immigration professionnelle et faciliter l’accès de ressortissants étrangers à des métiers choisis.”⁷⁰

(Ministère de l’Immigration 2010c)

The rhetorical emphasis on labour entry selectivity pronounced by Sarkozy’s ‘immigration choisie’ approach in 2006 *prima facie* symbolises a return to a utilitarian immigration policy. The official statement above indicates that policy responds to specific sectoral needs. Observers take this development as incidence for a normative critique that highlights the unequal treatment of different migrant workers and the precarious, often irregular situation of many among them (Morice 1996; Morice and Potot 2010; Terray 1999). Others appreciate it as notionally ‘desirable’ economic selectivity in labour migration policy (Saint-Paul 2009; Tribalat 2010). So what tools and mechanisms does regulation provide to operate this renewed selectivity of labour migrants in

⁷⁰ Translation from French: “In order to respond to recruitment needs in specific sectors of the economy, France aims to better organise professional migration and to facilitate foreigners’ access to selected professions”

France and to what extent does it relate to economic and socio-political classification mechanisms? The French mapping exercise relies on data from policy documents from the government and Ministries, but mainly draws on the legal codification laid down in the French Foreigners Law (*Ceseda*) (République Française 2010), including amendments up to May 2010 (table A2).

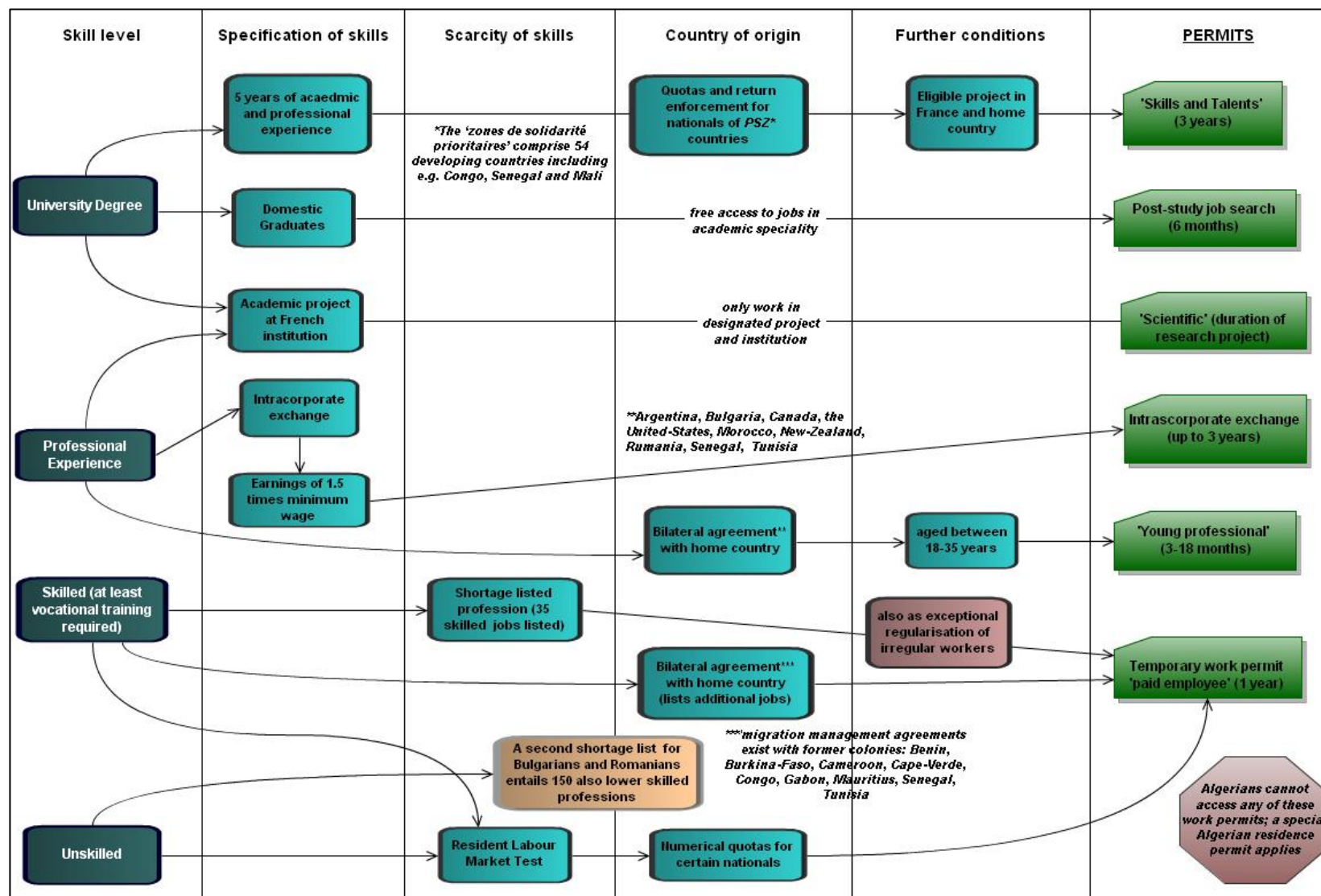
6.2.1 Distinction of Skill Levels and Resident Labour Market Test

Investigation in the French legal infrastructure exposes a clear distinction between so-called ‘professional’ schemes and shortage routes for migrant worker admissions. As in Germany migrants of different skill levels face quite different selection criteria and rights regimes, with the higher-skilled and ‘professional’ entries being treated most benevolently (see French classification map, figure 6.3). Generally speaking, foreigners need a work authorisation to enter the French labour market. Since the 1974 recruitment stop migrant workers have been admitted via a RLMT, just as in Germany. More specifically, companies have to offer vacant positions on the domestic labour market through the National Employment Agency (*Pôle Emploi*) before being able to employ any TCN worker. This tight enforcement of domestic labour preference contributed to the drop in official annual labour inflows since the 1970s, but bearing in mind that they might equally have contributed to the informalisation of foreign workers’ situation as chapter 5 indicated. Up to date the RLMT logic governs the numerically most significant labour entry schemes for standard skilled employees, as we will see later on.

6.2.2 Beneficial Treatment of High-skilled Workers with Focus on Graduate Skills

The general protection of the domestic workforce has partly been lifted for higher skilled workers since 1997 (*Chèvenement Law*) and reflects a distinction of routes and eventual rights by skill level. To facilitate entry of scientists, the government then abolished the RLMT for those carrying out a research project at a French institution. The ‘scientific’ work permit offers researchers secure residence for the duration of their project, but ties them to the academic institution and designated project. In a similar vein, a 1998 administrative circular advised prefectural decision-makers to ‘fast-track’ applications of information technology specialists (Menz 2009: 146). Since 2006, a renewable three-year permit for ‘skills and talents’ opens options for prolonged professional stays and even eventual settlement.

Figure 6.3: Classifications of Labour Migrants in French Legislation



The permit is explicitly targeted at highly qualified workers, including scientists who would otherwise be captured under less advantageous provisions of the 'scientists' permit which only covers a fixed-term research stay bound to a pre-determined project and institution in France (Ministère de l'Immigration 2010b). Lastly, foreign graduates who achieved a postgraduate degree in France also encounter facilitated entry conditions: they can look for a job irrespective of the domestic labour market situation for six months and can obtain a 'paid employee' permit to accept a job offer in their academic speciality (Ministère de l'Immigration 2010b).

What these categories of permits share is their concentration on graduate and sometimes postgraduate level skills as a minimum entry requirement. Scientists and IT specialists per definition have to prove academic and/or professional credibility in their field and so do post-study job searchers. Skills defined as graduate skills equally matter for the 'skills and talents' permit. Applicants need at least a combined five years of academic training and/or professional experience in a skilled job to qualify. While post-study job searchers need to earn 1.5 times the national minimum wage net, 'skills and talents' applicants must only provide a credible professional project linked to their academic education and professional proficiency. The skills and talents permit indeed asks the applicant to deliver on a professional project plan in France but also in their home country on return, and the project shall benefit both countries (Ministère de l'Immigration 2010b; République Française 2010). The discretionary decision on what counts as an eligible project has triggered some criticism as lacking transparency though (Ferré 2007).

A second set of permits addresses temporary migration routes for young professionals (up to 18 months) who are in search for initial job experiences abroad, and for intra-corporate exchanges (up to three years). Both enforce strict circularity: the former does not provide renewal options and prohibits in-country change of status to other foreign employee categories when the permit expires. The latter explicitly excludes any possibility of benefitting from long term residence rights after 5 years. In fact, intra-corporate exchanges do not count as labour admissions or indeed as migrant worker residents in the first place and are missing from the associated annual statistics. Their exception from the required signature of an integration contract also proves the point that ICT are not expected to settle in France, just like in Germany and indeed the UK as we will see later. In terms of selection mechanisms, ICT workers must provide proof of their qualifications (academic and professional) and attract a salary of 1.5 times net the national minimum income (approx. 1.500 Euros currently). The 'young professionals' permit offers 3-18 months access to employment in France for individuals aged 18-35 who hold a degree or display

relevant work experience and speak fluent French. It is a reciprocal permit for individuals from certain countries of origin⁷¹, equally granting French graduates to gain work experience abroad.

A preliminary conclusion from a scrutiny of permits and selection procedures sheds highlights on the judicial concentration on high graduate level skills. A range of different residence and work permits is available for their relatively smooth recruitment. The European Blue Card for high-skilled workers, which is only to be implemented by Member States in 2014, will further add to these categories, with similar selection procedures but higher earning requirements (1.5 times the average gross annual salary). The required high skills for these migration routes are defined as expertise in research and science, specific skills in some sectors like IT, project-based skills based on academic and professional experience, but also in terms of potential earnings for some permits. It is worth mentioning that self-employed individuals can also apply for a 'skills and talents' permit if they invest at least 300.000 Euros and employ one person besides themselves.

6.2.3 Selection by Scarcity of Skills

While the abundance of different recruitment channels suggests empirical salience of the high-skilled permits discussed so far, their actual use is very limited compared to other categories of worker inflows (table 6.4). In the first complete year of operation in 2008, only 183 migrants entered France with a skills and talents permit. Scientist entries increased from around 1300 to almost 2000 annually from 2004 to 2008, but remain much less relevant still than other newcomers. The most important permit in quantitative terms is the paid employees permit (*carte salarié*), which is a temporary permit that gives access to the labour market for one year and is renewable (*carte séjour temporaire*).

Most of the increase in regular labour entries from around 14,100 in 2004 to almost 28,300 in 2008 (Senat 2010) was in fact triggered by skilled and unskilled paid employees whose admissions more than doubled in this period (seasonal workers also contributed to the overall increase in annual inflows). The temporary work permit allows employment in the designated job only, while access to the whole labour market requires two years of residence for permit holders. The selection principles are much more organised around labour scarcity for skilled and unskilled jobs, drawing on the mechanisms of RLMT or shortage list matching. Any professional activity under a temporary residence permit requires a work contract which respects minimum wages, and an officially established labour scarcity which legitimises foreign recruitment. The default

⁷¹ Bilateral agreements for young professional exchanges (often including quotas) exist for Argentina, Bulgaria, Canada, the United-States, Morocco, New-Zealand, Rumania, Senegal, and Tunisia (MIIDS 2010).

preference of domestic workers and the procedural link to the RLMT as dominant policy tool for selecting workers sharply distinguishes paid employee permits from the ones discussed in the subsection above. In other words, a structural labour shortage in a profession, sector and region has to be established before a company can employ a TCN worker that is not a young professional, scientist, intra-corporate exchange or a 'skills and talents' professional.

Table 6.4: TCN Work Inflows per Type of Permit in France

	2005	2006	2007	2008	2009
Skills and talents	-	-	5	183	364
Scientists	1318	1404	1594	1957	2253
Paid employees	8377	8356	13448	18371	15155
Intra-corporate transfers	-	-	-	1612	2386
Exceptional regularisations	2697	2695	1541	1862	2583
Algerian residence certificates	31344	31060	26635	26133	25245

(Comité interministériel de contrôle de l'immigration 2011; Sources: OFII 2010b; Senat 2010)

Work authorisations after a RLMT are distributed by Departmental Employment Agencies (*Directions Départementales de l'Emploi, du Travail et de la Formation Professionnelle*, DDETFPs) on the basis of what could be best translated as a 'mismatch degree' (*taux de tension*) of labour supply and demand in a given profession and a designated region based on data from the *Pôle Emploi*. Just as in Germany, the labour scarcity assessment is highly institutionalised in a strikingly CME-like coordinated labour market and unemployment governance system. In both countries, employment agencies facilitate the matching of foreign labour supply and demand and they can veto recruitment if unemployment in the sector and/or region is high and suggests domestic labour supply (in French: *opposabilité de la situation de l'emploi*).

In order to avoid the lengthy RLMT with institutional involvement in cases of structural shortages that feature low domestic unemployment and continuous high labour demand, the French administration has waived these procedures categorically for some professions with the two shortage lists introduced in 2008 (chapter 5). Migrants with the relevant skills profile can access professions mentioned on these lists without RMLT. Both admission procedures – shortage lists and case-by-case checks through the RMLT – lead to the same one-year residence permit and associated rights. Selection procedures within this framework, one way or the other, clearly target the scarcity of skills per sector, profession and in a specific region. They aim to

make sure that the applicant's profile matches a concrete labour demand that cannot be satisfied domestically.

As the discussion of the Hortefeux Laws in chapter 5 has briefly addressed, shortage lists since 2007 also offer ex-post access for informal workers. The TCN list can be used – depending on discretionary decisions of the prefectures – as a tool of exceptional regularisation of *sans-papiers* who are employed in the listed shortage professions (GISTI 2009b) (table 6.4 for statistics on respective status changes). We have to bear in mind that most of these shortage jobs require high qualifications such as IT specialisation or engineering skills and do hence not reflect the employment realities of many informal workers (FRA4-ADV).

6.2.4 Selection by Country of Origin

A second glance on the French classification map indicates that selection by academic and professional skill level and labour scarcity are not the sole mechanisms of structuring migrant workers' access. Under the pretext of co-development and brain drain prevention, circular migration schemes dominate the rights regime for nationals from so-called priority solidarity zones⁷² (PSZ). Selection by country of origin, just as in the German case, prominently enters the stage of labour migration border-drawing – even though with a considerably different flavour to it in France, as we will see. As opposed to the German selection by origin in skilled and lower-skilled parts of the labour market, France applies it to some high-skilled schemes as well, and it moreover openly struggles with post-colonial ties. Firstly, a 'skills and talents' permit for individuals from the PSZ countries can exclusively be issued where a bilateral agreement states so, it can be subject to an annual cap, and/or the TCN has to agree upfront to relinquish the long-term resident pathway and go back to their country of origin after a maximum stay of 6 years (GISTI 2009a: 108f).

Secondly, most emblematic for French selection by origin principle are bilateral migration management agreements with former colonies (*accords de gestion des flux migratoires*). France has so far signed nine agreements with Senegal (2006), Gabon, Congo-Brazzaville and Benin (2007), Tunisia, Mauritius and Cape-Verde (2008) and Burkina-Faso and Cameroon (2009) and more accords are planned until 2011, among others with Mali, Haiti, Philippines, Nigeria, and Egypt (Carrère and Duval 2009). As negotiations are ongoing and contents differ by signatory

⁷² The 'zones de solidarité prioritaires' comprise 54 developing countries including for instance Congo, Senegal and Mali. French development policy aims to prevent brain drain from these countries (Ministère de l'Immigration 2010b; République Française 2010).

country, it is hard to keep track of the empirical details of this policy tool; especially since information also varies within administration (the OFII presents different data than former Immigration Ministry, for instance). Generally, however, agreements include both restrictive and more beneficial specifications on labour migration routes. For example, based on brain drain rhetoric around PSZ countries, France operates annual quotas for ‘skills and talents’ or ‘young professionals’ from respective sending countries. Simultaneously, respective appendices in the agreements qualify additional skilled professions as accessible to nationals from specific sending countries. From case to case, this might contain some of the professions already covered by the generic shortage list for TCNs, but some go well beyond that and open more labour entry options for the nationals of certain signing countries. For example, nine additional professions are available to applicants from Gabon, 77 for Tunisians and an entire 108 for Senegalese (Ministère de l’Immigration 2010a; OFII 2010a). In return for the alleged privileged access (even though it might not be for the high-skilled permits) to the French labour market given to their nationals, sending countries consent to fighting irregular flows by enforced emigration controls and facilitated repatriation procedures.

The special treatment of former colonies in bilateral agreements suggests not only selection by origin, but selection by post-colonial identity of migrant workers, which is quite distinct compared to the German case with its focus on a European and previous guest-worker labour pool. There are also more levels of country of origin selectivity in France than in Germany: in the case of limited quotas for high-skilled permits the annual quotas set in migration management agreements might be restrictive compared to regulation for generic TCN entries, but they are at the same time more advantageous compared to TCN from the priority solidarity zones whose governments did not sign a bilateral agreement with France and can therefore not access certain permits (such as ‘skills and talents’) at all.

To add even further to the multiple layers of French country of origin selectivity, thirdly, Algerian nationals cannot enter via any of the above mentioned high-skilled routes, or indeed shortage professions mentioned below. Since the Evian Agreements of 1962 have to guarantee these former ‘French subjects’ free access to the entire French territory and labour market in case of admission, the operation of permits which limit these liberties are unlawful vis-à-vis Algerian entries. De jure, once admitted, Algerian nationals in France cannot be limited to a specific job, region, or sector, or forced to leave after a project has finished, as the specific Algerian Residence Card entails free movement. De facto, however, this beneficial treatment after admission means that Algerians are often excluded and not admitted in the first place. Table 6.4 indicates that Algerian inflows – at around 25,000 in 2009 – are still larger than the TCN work routes taken together, but they have been decreasing over the last years.

Lastly, another complication of selection by origin evolves around the EU vs. non-EU divide discussed in chapter 5. Back there, the brief discussion of shortage lists has indicated that the selection process for workers who fill labour shortages displays a clear hierarchy of regions of origin in two important ways: 1) it distinguishes ‘good’ post-colonial countries from others by attaching additional entry options to the bilateral migration management agreements 2) it separates EU from non-EU workers in two distinct shortage lists. The first issue has already been discussed above, so what can we say about the dynamics of the second?

Shortage lists distinguish between one list for EU-nationals from Bulgaria and Romania which comprises 150 professions and includes not only high qualified but also unskilled jobs⁷³, and a separate list for TCN with only 35 mostly skilled and high-skilled professions⁷⁴ on it (OFII 2010a). The longer EU list gives access to the whole French metropolitan territory while the shorter TCN list is bound to regional definitions of shortages out of the choice of 35 professions. The general gist of the lists seems to be an opening ‘à deux vitesses’ for EU-nationals of member states that do not yet enjoy free movement and for TCN workers (GISTI 2007). In effect, selection by scarcity of skills is conflated with country of origin selectivity in multiple ways in French labour admission policy: the definition of shortages workers can legitimately fill is most encompassing for Bulgarian and Romanian workers as EU free movers to be, it is slightly beneficial for nationals of some bilateral agreement parties such as Senegal or Tunisia with expansive additional shortage lists, and it is most limited and demanding for all other third countries with the list of 35 mostly higher-skilled professions. In effect, access to low-skilled shortage jobs is highly curtailed for descendants from most non-EU countries.

6.2.5 *Summary of French Classification*

French labour migration policy displays three main principles of border-drawing: by skills, by labour scarcity and by origin. The waiving of the RLMT and shortage definitions for certain groups of workers cements a clear distinction between high-skilled entry routes and other paid employment. Admission concentrates on graduate and sometimes postgraduate level skills are the minimum entry requirement, so skill level serves as positive classification tool. But admission

⁷³ The EU list mentions, for example, unskilled or low-skilled jobs such as window cleaners, housekeepers, carers for children and the elderly, caterers and service staff in restaurants, woodcutters, metal workers in industry, coppersmiths, machine tool operators, concrete contractors etc.

⁷⁴ The TCN list comprises mostly qualified jobs such as land surveyors (geodesists), IT specialists, several types of engineers, site managers or other skilled construction jobs. By contrast, especially jobs in unskilled construction work, catering, cleaning and housekeeping – which are believed to be the main employments of irregular workers – are missing.

procedures also target scarce skills, and even informal residents can access shortage jobs ex-post under the umbrella of the scarcity logic. Moreover, we find strong evidence for a multi-layered differential treatment per country of origin which distinguishes EU accession countries, former colonies, countries to be officially protected from brain drain, and other third countries. This cuts across classifications by skill level and scarcity in several ways and feeds into a fine-grained migrant worker classification framework.

6.3 Mapping Migrant Classification in the United Kingdom

“Managed migration is not just good for this country. It is essential for our continued prosperity”

(Tony Blair in: Home Office 2005: 5)

The points-based system (PBS) has been a core ingredient of New Labour’s recipe to attract and select foreign labour force. Since late 2008 it has channelled all labour entries to the UK with a view that managed migration underpins prosperity and growth, as Tony Blair’s statement above suggests. Modelled after the Canadian version, the PBS selects migrant workers according to their likely success in the labour market: “Points will be scored for attributes which predict a migrant’s success in the labour market, and/or control factors, relating to whether someone is likely to comply with the conditions of their leave” (Home Office 2006: 2, pt. 10). In each Tier applicants score points according to criteria such as educational attainment, work experience, prospective earnings, English language proficiency, as well as periods of residence, employment or education in the UK. The required points and the combination of categories in which to score them – some mandatory and some optional – is different for the five Tiers. The following discussion will concentrate on Tiers 1, 2 and 3 as the *de jure* work routes and neglect Tier 4 students and 5 working holidaymakers. The mapping draws on key policy documents from the Home Office and UK Border Agency, but also reports of the MAC and considers restrictions to the PBS introduced by the Conservative-led government up to May 2011 (table A2).

6.3.1 Distinction of Skill Levels

All applicants in the work-related PBS Tiers need to proof proficient English language skills and sufficient funds to cover their maintenance independently from social benefits. Apart from this commonality, different definitions of skills and their combination with further selection mechanisms lead to a highly differential admission regime (see British classification map, figure 6.6). Let us first consider skill level classifications and specification of skills.

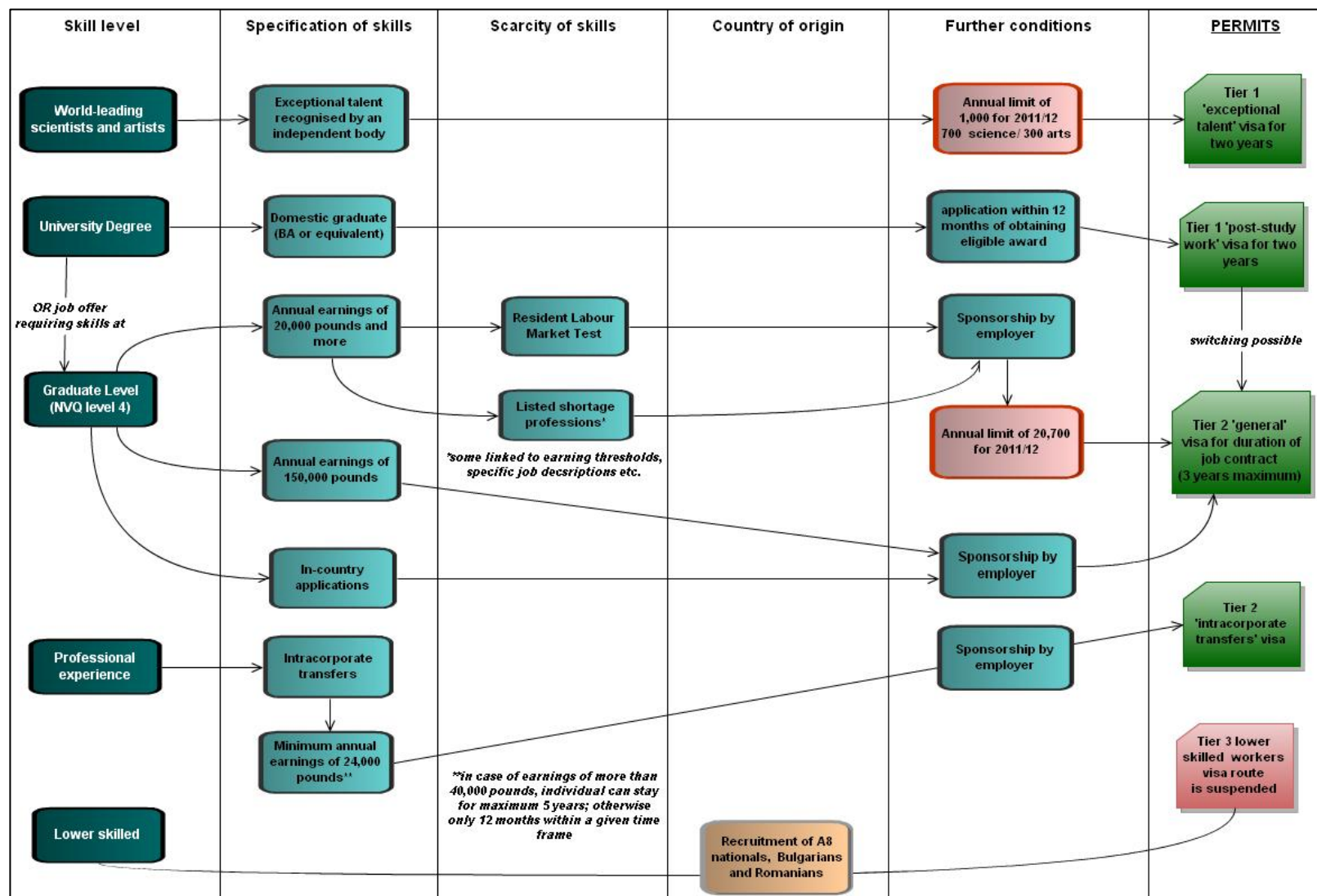
Table 6.5: TCN Work Inflows per Type of Permit and Entry Route in the UK

	2007	2008*	2009	2010*	10/2010 – 04/2011	04/2011 – 03/ 2012
Tier 1 (general)	-	7775	13930	10130	5400 (interim cap)	-
Tier 1 (exceptional talent)	-	-	-	-		1000 (cap)
Tier 1 (post-study work)	-	760	4245	5360		n.a.
Tier 2 (general)	-	15	8555	9915	18700 (interim cap)	20700 (cap)
Tier 2 (ICT)	-	45	22030	29175		n.a.
Work permit holders*	64115	54900	5025	240		n.a.

**launch of PBS in Q2/2008, redesign of PBS under caps and restriction of Tier 2 routes in Q4/2010; work permit system prior to Q2/2008 (out-phased gradually); (Source: Home Office 2011a)*

Tier 1 (general) had been initiated as high-skilled supply-led scheme. In its original form, it offered relatively easy access for migrants with a combination of university qualifications and high previous earnings. They could enter without a concrete job offer and were welcome to add to the domestic pool of labour without RLMT. While maintaining the free labour market access and exception from RLMT, the Conservative-Liberal government has diluted the supply-driven approach in Tier 1 significantly: the points-base required for entry clearance was raised in 2010. Applicants with a bachelor degree, for instance, now require immensely high annual earnings of more than £75,000 to score the required points (40,000 had sufficed before). Changes to the PBS in April 2011 further restricted Tier 1 entry by limiting the circle of potentially successful applicants to persons ‘with exceptional talent’. This now comprises ‘world-leading’ scientists and artists with a renowned reputation (Salt 2010). This group of high-skilled elite workers can come to work in Britain without a RLMT and enjoys free labour market access in their field. Regardless of caps that will even further limit Tier 1 entry options and are discussed later, the more demanding qualifications profile will force down admissions in the high-skilled route from the comparatively high levels (7770 to almost 14000 in 2008-2010, table 6.5). Beneficial treatment also applies to domestic graduates who can stay on a job-search visa for two years under Tier 1 post-study work provisions within 12 months of their award, and switch to a regular work category if their job search is successful. With the post-study work channel being closed from April 2012, domestic qualifications are no longer of any advantage in the British labour admission system.

Figure 6.5: Classifications of Labour Migrants in British Legislation



Selection by skill level is equally important for Tier 2 which bears the label ‘sponsored skilled workers’ (Salt 2010). The New Labour government previously defined ‘skilled’ as NVQ level 3 qualifications⁷⁵, but the coalition raised the skill requirements to graduate level for all entries since April 2011 (NVQ level 4). At the same time, Tier 3 for lower-skilled professions was never activated and the new government made it clear in 2010 that the suspension of lower-skilled recruitment from third countries would be maintained. Hence, no TCN without a higher education degree or professional experience allowing them to work in graduate level jobs can enter the UK labour market through the PBS. This is also true for ICT who need to display professional experience in their job, or be part of a graduate training scheme within the multinational company that posts them to the UK.

Should Tier 3 ever be activated in the future, it is likely to be under much more restrictive residence conditions: Tiers 1 and 2 open up pathways to settlement after 5 years (long-term residence), but Tier 3 applicants would be expected to “return home at the end of their stay in the UK” (Home Office 2006: 15). As the law stands, they would not be able to settle as long-term residents, would not be allowed to switch into other Tiers, and would not enjoy family reunion rights either. We thus find the pattern of granting fewer rights to migrants of lower skill levels confirmed in the British case as well.

While the correlation between skill level and rights limits entry options and residence rights of lower-skilled workers, it clearly has positive effects for some high-qualified elites: tracking this correlation further on the classification map, we see that the rights attached to Tier 2 visas are less generous than in Tier 1. While the latter obtain a leave to remain for 2 years, the duration of stay for Tier 2 workers is limited to the duration of their work contract (3 years maximum in case of permanent contracts, renewable for 2 years). Most importantly, Tier 2 visas give access to a specific job only and tie the migrant worker to a sponsoring employer. They can only switch job or employer, or indeed renew their permit with the UK Border Agency’s consent. In fact, all but Tier 1 workers require a sponsorship from a specific employer holding a license from the UK Border Agency.

This UK-specific mechanism shall assure the applicant’s will and ability to do the designated job, the employer’s respect of wage conditions and their commitment to the RLMT mechanism (Home Office 2006). Employer sponsorship represents a formerly unknown emphasis on the responsibility of employers in the migratory process to the UK, and indeed responsabilises

⁷⁵ This included, for example, a first or foundation degree, a diploma in higher education, teaching or nursing qualifications, international baccalaureates, two or more A levels equivalents, four or more AS levels equivalent or any other higher education below a degree level (MAC 2008: 71).

employers as end users of the British migration regime in an unprecedented way. Neither France nor Germany operate a similar system, apart from the sponsoring of scientists in France. Any abuses of the migrant's work and residence permit, or breaching of labour and migration law by the employer will be recorded and hamper future recruitments or even invalidate sponsorship licenses. Selection by trustworthiness of the employer has hence become a specific characteristic of the recent British labour migration regime for all workers apart from high-skilled elites in Tier 1.

6.3.2 Selection by Scarcity of Skills

Sponsorships speak directly to selection by scarcity of skills as well for Tier 2 general applications. Like France and Germany, the UK operates a RLMT system for most skilled entries (Germany also does so for high-skilled workers). Employers have to demonstrate that a graduate level job they offered to a migrant worker could not be filled from the domestic pool of labour. In order to enforce compliance, the UK Border Agency links the sponsorship licensing process to employers' genuine engagement with the RLMT prior to foreign recruitment. In other words, selection by scarcity of skills shall be enforced with the policy tool of sponsorship licenses. However, unlike in France and Germany, the British RLMT relies on employers' attestation alone, rather than being carried out by an Employment Agency based on a central labour market database (UK7-ADV). The National Audit Office and the Public Accounts Select Committee have criticised this mechanism as being prone to non-compliant behaviour of employers (House of Commons 2011; National Audit Office 2011). They believe that the attestation process limits the weight of the RLMT as a means to establish scarce skills in practice.

In the same context, policy advisors criticised the frequent use of the ICT route in 2009 and 2010 – with more than 22,000 and more than 29,000 admissions, respectively (table 6.5) – and suspected misuse of the route for standard recruitment that should actually be channelled through the shortage list or RLMT (MAC 2010a). Low Tier 2 (general) admission figures in the same time period support this suspicion. Recent policy changes have hence implied stricter selection rules for the ICT route and aim to redirect recruitment towards the general shortage and RLMT channels.

A second tool for selection by scarcity of skills is the annually updated shortage list. Since its set-up in 2008 the *Migration Advisory Committee* (MAC) has advised the government on recruitment mechanisms and shortage definitions, but also on the calculation of annual limits to

inflows (discussed later). The MAC consists of independent scientists⁷⁶ and is sponsored by the UK Border Agency. MAC shortage lists rely on evidence from employer surveys on so-called hard-to-fill and skills-shortage vacancies, but also on data and strategic policy papers from the *UK Commission for Employment and Skills* and the *Alliance of Sector Skills Councils*. They jointly define skills profiles for Tier 2 shortage admissions (for role of the MAC see Anderson and Ruhs 2010; see neat account of shortage definitions in Dench, Hurstfield et al. 2006). Not every skills shortage will be added to the list though, only vacancies for which it seems ‘sensible’ to be filled with migrant workers make it on the list (MAC 2008; MAC 2010b).

The criterion of ‘sensible’ recruitment is notoriously vague. The MAC tries to balance policy objectives such as the prevention of job displacement, protection of UK workers, skills policies targeted at the UK resident workforce⁷⁷, support of innovation and productivity etc. So while companies are supported in their shortage recruitment for economic reasons, some ‘priority areas for upskilling’ of the resident workforce are supposed to refrain from relying excessively on migrant labour (UKBA 2010). Selection by scarcity of skills and wider policy objectives clearly intersect, sometimes in a contradictory way, in the skilled migration realm, thus curtailing the notionally ‘employer-led’ focus of Tier 2 (Home Office 2006). In effect, employers have to demonstrate their efforts in domestic education and training to obtain sponsorship certificates (ibid), even though the Home Office has not yet announced what it thinks these efforts should look like and under which conditions it will enforce penalties. Since qualification requirements became more demanding, the MAC only lists graduate level jobs as shortages. While the 2010 list still included some NVQ level 3 jobs in food processing (meat-cutters), catering (chefs and cooks) or care (care assistants), the 2011 update focuses on higher skilled jobs such as construction management, several engineering fields, leading cuisine⁷⁸, or senior care assistants. Nurses are currently only admitted into specific bands such as anaesthetics, theatre or critical care (MAC 2010b; UKBA 2011b). In its revision of the shortage list, the MAC – directed by government policies – rejects scarcity as a legitimate selection mechanism for workers with less than graduate level qualifications from outside the EU.

A third mechanism of scarcity selection, conflated with skill level, concern earning thresholds. They are much more important in the UK context than in the other two cases. The PBS offers more beneficial admission and residence rights to well-paid migrants. Graduate level

⁷⁶ It currently comprises economists, demographers and social scientists like David Metcalf of the London School of Economics (currently chair) or Martin Ruhs from the migration research unit ‘Compas’ at Oxford University.

⁷⁷ This relates to the National Skills Strategy of the Dept. for Business, Innovation and Skills (BIS) of 2009.

⁷⁸ Chefs must be executive chefs, head chefs, speciality chefs or sous chefs with a high pay of more than 28,000 annually (2011 provisions).

professionals with high prospective earnings of at least £150,000 per year can get a Tier 2 visa without RLMT. In fact, scarcity of labour supply is taken for granted for jobs paid at these ‘stellar wages’ (UK1-BUS). Similarly, in the specific ICT route of Tier 2 those with higher annual wages (£40,000 minimum) obtain beneficial residence rights and can stay for up to five years, while those who earn less can only live and work in Britain for up to 12 months. The assumption of higher labour scarcity due to higher earning potential gives access to more encompassing rights then. The specification of skills and relative labour scarcity as over-average earning potential is a significant marker of labour migration border-drawing in the UK and significantly determines migrant workers eventual rights. But earnings do not just serve as a proxy for exceptionally high and scarce skills in the recruitment of foreign elites. They are also a minimum entry requirement for ‘normal’ Tier 2 workers: ICT need to earn at least £24,000 and Tier 2 (general) applicants have to demonstrate earnings of at least £20,000 to score enough points in the obligatory job offer category of the PBS. It is worth noting that the high earning thresholds, while officially linked to scarcity and economic contribution arguments, is likely to provoke country of origin divides in practice, as the sought-after well-educated and high-earning elite will more often than not originate from the rich global North.

6.3.3 Selection by Country of Origin

The suspension of Tier 3 and concentration on graduate level skills in Tier 2 imply a more hidden selection by origin as well. Even though the UK does not operate bilateral recruitment agreements with extra-European countries similar to the French *accords de gestion* or the German *Anwerbeabkommen*, British legislation structures labour migration by origin as well. Similarly to the other two countries studied here, it has been the political will of British policy-makers to fill low-skilled gaps with free labour movement in the enlarged EU. In fact, the suspension of Tier 3 for TCN workers has been explained in that very context (Home Office 2005; UKBA 2010). Britain currently recruits workers from Bulgaria and Romania to fill low skill gaps in seasonal agriculture and food-processing, for example.

The (increasingly) strict skill level rules under Tier 2, the suspension of Tier 3 and exclusive recruitment of EU workers for lower-skilled shortages limit entry options for TCN workers considerably. Border-drawing by skill level is de facto conflated with the British liberal approach to EU free movement and the perceived abundant supply of lower-skilled workers from these countries. This makes the legal access of non-EU workers with lower than graduate level qualifications to the UK labour market virtually impossible.

The preference of EU workers simultaneously excludes individuals from former colonies and Commonwealth countries from a range of skilled and low-skilled jobs. Their being treated indifferently to any other TCN indicates that the chapter of post-colonialism or positive discrimination of post-imperial flows is closed in the UK, much in contrast to France. If anything, we find a pattern of silent negative discrimination in the shape of EU worker preference for many skill levels: The comparative openness to A8-workers in the UK with large inflows, very much unlike the transitional limitations and limited entry figures in France and Germany, has highly curtailed and shaped the legislative space for TCN labour migration in the UK. Economic openness and its numerical and public opinion effects might also be at the heart of more recent restrictive backlashes in the labour migration policy in the UK, as chapter 5 has suggested. Chapter 8 will explore this argument in the light of policy-makers' interpretations.

6.3.4 *Selection with Numerical Limits*

A last point worth mentioning regarding UK labour migration policy is the operation of annual caps. They represent a deliberate cut-off of the previously described border-drawing mechanisms based on scarcity and skill level. The cut-back of annual net migration figures under a cap regime has been one of the core election campaign topics and the Cameron government has implemented limits swiftly after a consultation run by the MAC (UKBA 2010). An interim cap on Tiers 1 and 2 has already been in place since autumn 2010⁷⁹. Since April 2011 Tier 1 admits 1000 persons 'with exceptional talent', and Tier 2 is limited to 20,700⁸⁰ entries per year (Home Office 2011b), adding up to annual limits of 21,700 new work entries. This implies a numerical limit to sponsorship certificates in Tier 2. In fact each licensed employer receives a certain maximum amount of certificates depending on their recruitment needs and can apply to use them on a monthly basis. But once the global monthly limits are met as a pro ratio of annual limit, employers can no longer use their certificate to recruit a new foreign worker. These companies are, however, treated with preference at the next monthly round of recruitment (UKBA 2011a).

Moreover, a preference principle applies to domestic skills, in-country applications, project-based professional stays and high investment levels and earnings: the cap disregards the

⁷⁹ This limited the total number of non-EU migrant worker inflows to just over 24,000 before April 2011, a cut of five per cent on 2009 entry figures. 5,400 of the visas were issued in Tier 1, and 18,700 in Tier 2.

⁸⁰ A look on entry figures per route (figure 6.5) indicates that recruitment in Tier 2 (general) has in fact been much lower than the new annual limits (only 9,915 entries in 2010 as opposed to the new cap of 20,700). This notional increase, however, accounts for the simultaneous limitation of other routes. Applicants will be likely to be diverted into the new Tier 2 (general) as a consequence of closed schemes (Tier 1 general) or stricter requirements in alternative routes (ICT for example).

post-study work route, investors and entrepreneurs, and ICT. Also, Tier 2 workers with high earnings of more than £150,000 or those who apply from within the UK do not count towards annual limits. In the context of MAC consultation on annual flow limits, critics highlighted the limited scope of the cap: there is no control over EU worker flows or British emigration, the UK face severe practical and legal-humanitarian difficulties in limiting family and student entries, and allowed for many exceptions to the cap in the TCN work routes. Given these hindrances, some experts have expressed fear that Tier 1 and 2 are “asked to do too much” to meet the political target of reducing net immigration in the UK (UK4-ADV).

6.3.5 Summary of Classification in the UK

The PBS draws borders by skill level with a concentration on graduate level skills in Tier 2, very high earning thresholds for the most beneficial treatment of migrant workers, and recruitment of world-leading elites and domestic graduates in Tier 1. We find the pattern of granting increasingly fewer rights to migrants of lower skill levels confirmed in the British case. The relative openness to Eastern European migration, much in contrast to Germany and France, has limited the space for skilled and lower-skilled labour migration from third countries considerably in Britain. This includes an absence of any post-colonial specification of labour entries in the UK, much in contrast to France. Sponsorship certificates have become a dominant policy tool to ensure the trustworthiness of employers in the recruitment process. Since recently, annual caps in some categories of Tiers 1 and 2 represent a deliberate cut-off of border-drawing based on scarcity and skill level and came to curtail the previous *laissez-faire* and ‘employer-led’ approach to foreign labour recruitment.

6.4 Comparative Legal Classifications in Labour Migration Management

The previous sections scrutinised labour migration border-drawing in public law and identified main policy tools and selection principles in Germany, France and the UK (figures 6.1, 6.3 and 6.6). What can we learn from this case-by-case mapping in relation to the thesis’ research questions? How do states classify migrant workers in public law? This section establishes main comparative findings from the individual mapping of three legal classification systems to answer the first sub-question (R1) on this thesis’ research agenda. This will eventually inform the subsequent comparative analysis of policy meanings and their references to specific border-drawing dimensions and sites. Table 6.7 provides a comparative overview.

6.4.1 *Commonalities: Skills Distinction and Labour Scarcity Focus*

Comparative analysis finds two fundamental common principles in legal classifications across countries: selection by skill level and selection by assumed labour scarcity. A pattern of differential rights regimes – more benevolent for higher skills – and differential application of the labour scarcity principle – less relevant for higher skills and tightly enforced for skilled and lower-skilled jobs – emerges from all three cases and informs chapter 7 analysis. Within this common pattern, however, there is scope for variation as to the exact definition of skills, or degree of institutionalisation of scarcity assessments.

Firstly, we find a clear distinction of entry routes according to skill level across cases. Differential rights regimes imply a beneficial treatment of the high-skilled and much tighter entry channels and residence control for lower-skilled workers. Even though the labels of permits change across cases, they broadly address the same routes: high-skilled professionals, a distinct post-study work route, ICT entries, shortage routes and a RLMT route in the skilled realm, and some lower-skilled routes which are highly limited and sometimes even inactive (UK). Countries commonly offer more beneficial treatment and entitlements to higher skilled applicants, even though the definition of 'high-skilled' varies across legislative frameworks as the sections above have shown. The most beneficial rights regime is certainly the German permanent residence permit, but also the French multi-annual routes (e.g. skills and talents) and the British Tier 1 (exceptional talents) offer more secure residence, easier and more comprehensive labour market access. Earnings thresholds are commonly used to distinguish particularly scarce high or specific skills. All countries offer specific post-study work routes which allow domestic graduates better labour market access and reflect logics of selection by domestic qualification. France and Germany additionally operate distinct scientific project routes which facilitate recruitment. Governments commonly apply specific ICT routes, which do not count as long-term labour migration, but as project based temporary professional movement. The relatively easy access as ICT comes at a cost: permits are strictly temporary as ICT workers cannot switch into normal categories or apply for settlement (France) or their permit is fixed-term and cannot be renewed in the country (UK and Germany). The perception of ICT workers as non-migrants is striking for subsequent analysis. Interestingly, entry figures for high-skilled routes, apart from ICT and post-study work, are consistently low compared to skilled routes, sometimes only attracting a couple of hundred individuals each year.

In contrast to the beneficial high-skilled domain, skilled and lower-skilled employees coming via shortage routes or the RLMT are tied to their employer at least for the initial permit, and they can only stay for the duration of the work contract. The respective labour market or

migration authorities have to consent to changes of employers and this is certainly most pronounced in the British sponsorship certificate system. Additional labour market protection mechanisms in the guise of shortage lists, RLMT and bilateral recruitment agreements or country-specific quotas apply. The low-skilled realm displays the highest levels of restriction, with additional labour market protection clauses (Germany) or complete suspension of the route (UK). Overall – despite some variations in the definition of skill levels – the common legal distinction and differential treatment by skill level is a marked comparative finding that needs in-depth exploration in the interview analysis.

Secondly, labour scarcity is a guiding principle of admission across legislative contexts, with a differential application across skill levels. Scarcity is taken for granted in the high-skilled realm due to especially high qualifications or earnings, and it comes with relatively free labour market access and benevolent rights regimes. Only Germany additionally requires a RLMT for access to the permanent residence permit. Access to skilled jobs, by contrast, generally requires an explicit reference to the national labour force to establish a skills scarcity, either via the RLMT or a shortage list, or both (Germany). For skilled workers, eventually, their skills profile and its matching to a scarcity in the host labour market is one of the most important determining factors in the selection process. For lower-skilled jobs labour scarcity is mostly responded to in an EU context. All countries draw on what can be labelled an emergent EU labour geography: either by default through liberal EU free movement regulations (UK), with the help of specific shortage lists for EU-nationals (France), or in bilateral agreements (Germany). The strong structuration effect of EU labour geography on TCN labour admission policy – especially with restrictive effects for lower-skilled entry options – is a key point to scrutinise in further data analysis and forms a core argument of the thesis. More generally, the shared focus on labour scarcity and its varied significance in admission policies according to skill level is a crucial point for deeper interpretive analysis.

The perception and definition of scarcity in skilled jobs is common to all three countries, and they use similar policy tools to select skilled workers into shortages. Indeed, shortage list and RLMT admissions are by far the numerically most significant entry routes in all cases. Despite the common application of shortage lists and RLMT, what scarcity means, how it is established in detail, and which groups of migrants are exempted from it differs between countries. Germany, for instance, combines the shortage list with a RLMT, rather than using them as two separate tools as France and the UK do. Legislation excludes only scientists and domestic graduates from the strict scarcity principle. Outside the scope of the common post-study work route, domestic qualifications are a means of entering the skilled labour market in Germany more than elsewhere. The strong procedural involvement of the Federal Employment Agency and a special labour

market protection clause in the lower-skilled realm speak of the comparatively strict scarcity logic here. France and Germany are quite similar with regard to the institutionalised involvement of labour market institutions in the definition of scarce skills, with France applying less stringent mechanisms. The picture becomes most permissive in the UK where the RLMT works by attestation only, not by a thorough and independent check of employment agencies or job centres databases. In this context, the reliance on earning thresholds in Britain also for skilled jobs vs. a concentration on an institutionalised RLMT in France and Germany to establish skill shortages is of comparative significance: It points to a different organisation of the labour market and a different role of the state to facilitate, institutionalise, and even organise supply and demand of national and international labour. Again, the more corporatist character of the French and German labour markets might be mirrored here.

The divergence in mechanisms to establish scarcity reflects a typological distinction between the more corporatist and labour protective continental economies vs. a traditionally more liberal and laissez-faire UK national economy. Despite the liberalism in applying the RLMT, the UK is in fact stricter in its definition of shortages with a list only comprising graduate level jobs since March 2011, while France offers some skilled jobs and Germany even some restricted lower-skilled and untrained positions to workers. This divergence could be understood in relation to the different paths the countries chose after the 2004 EU accession. Britain's openness to A8-workers meant that most skilled and low-skilled jobs are quasi automatically filled from the extended European labour pool, while the French and German hesitance necessitated the operation of more encompassing shortage lists, often explicitly targeted at A8 or A2-workers. The normative script of economic liberalism was hence not abandoned in the UK; it fully applied to EU free movement but simultaneously fuelled a restrictive agenda for TCN entries. Chapter 8 will plunge deeper into this argument.

6.4.2 Differences: Selection by Country of Origin, Domestic Skills, and Annual Caps

The legal document analysis also exposed striking differences in classification regimes. The most obvious is the different use of country of origin classification with strong post-colonial flavour in France, a startling silence on post-colonial ties in the UK, and a markedly European recruitment focus in Germany. While all regimes draw on EU free movement, this plays out quite differently in practice. We moreover witness a pronounced German preoccupation with favouring domestically acquired skills, as well as a shared German and French attempt to deal with the semi-legal or informal population through labour migration. Lastly, the UK's operation of numerical limits to annual inflows marks a considerable difference in want of deeper analysis.

Three features appear striking when considering selection by origin: 1) it departs from the economic arguments related to skill level or skills scarcity and relates to questions of citizenship regimes, historical links to certain sending countries or the embeddedness of a country within the EU labour geography mentioned above. 2) Selection by origin varies much more across cases than selection by skill level. While some border-drawing principles, such as by default preference of EU-nationals, are common to all cases to some extent, their actual operation and interaction with TCN admissions is quite diverse. Indeed, the document analysis has painted fairly national portraits of non-skill related selection mechanisms.

As an example of historical links, French migrant classification displays a strong post-colonial dye both in terms of Algerian exceptionalism and the bilateral migration management agreements with former colonies with advantageous or disadvantageous effects for workers from respective countries. Despite a shared colonial history, the UK does not follow the French example of selecting (or indeed excluding) workers by their origin from the former empire. This sustains claims made in chapter 5 about the deeply politicised struggle over the French citizenship model in post-colonial times into which labour migration policy seems to be drawn quite selectively. The pragmatic UK approach to decolonisation and citizenship equally seems to imprint its mark on current governance, as the determined turn towards EU labour recruitment and therewith substitution of post-colonial labour ties indicates. In lack of an important colonial heritage, Germany exclusively selects workers within a wider European labour geography, but also continues to entertain special relationships with major guest-worker sending countries – most importantly Turkey –, and with some selected rich countries as part of a reciprocal foreign diplomacy approach.

Comparatively, countries are differently situated in the still emergent EU labour geography with the UK embracing free movement relatively head-on, Germany cautiously favouring A8-workers and potential accession country nationals over other TCN for skilled and lower-skilled routes, and France using a liberal shortage list for Bulgarians and Romanians in direct opposition to a rather restrictive list for TCNs. Moreover, the EU labour geography is drawn on selectively and variably in labour migration policy. Approaches vary from the UK's ample use of EU flows to fill shortages and simultaneous suspension of Tier 3 for low-skilled TCNs, a seeming restriction of post-colonial entry routes through EU free movement in French shortage lists, and a cautious phasing-in of free movement by help of hand-selected bilateral agreements with accession candidates in Germany (see more details on this in chapters 7 and 8). In all cases, the selective preference of EU-nationals – and in the German case also other European workers – precludes virtually all entry options for TCN workers of lower skill levels.

A specific feature of the German classification regime is a comparatively stronger focus on domestic skill acquisition. Especially the option of switch to standard work-residence status for *Geduldete*, ending their semi-legal position as temporarily tolerated residents to be expelled, bears features of an earned integration regime with resemblances to the contribution-rights-equivalence logics in the Bismarckian welfare state. The French provision of ex-post regularisation of informal workers in shortage jobs can be interpreted in a similar way. The UK PBS does not indicate any engagement with an informal or semi-legal population and domestic skills will cease to matter with the abolishment of the post-study work visa in 2012. These arguments will be elaborated in chapter 8.

A last comparative difference is the encompassing British use of annual caps. Even though France sets specific annual quotas for some nationals and some permits in migration management agreements and Germany limits lower-skilled entries as well, none of these countries cap the number of overall work inflows in order to reach a numerical target of net migration. I suggested in chapter 5 that we can read this as control backlash after a decade of economic openness to labour inflows and response to the numerically much larger work inflows the country experienced as compared to France and Germany. Chapter 8 elaborates this argument in light of policy-makers' interpretations.

Table 6.7: Comparison of Selection Principles and Policy Tools in Migrant Labour Admission Regimes

Selection Principle	Selection Mechanism	Germany	France	United Kingdom
Skill level	Graduate qualifications/ professional experience	beneficial permanent permit for high-skilled professionals and academics; extra scientist and specialist (mainly IT) route; ICT route	beneficial permits for graduates, experienced professionals, facilitated entry for project-based work and scientists; ICT route	Tier 1 visa for high-skilled individuals (world-leading academics and artists); Tier 2 (general) for graduate level jobs; Tier 2 for ICT route
	Earning thresholds as qualification proxy	for permanent residence permit for high-skilled professionals who are not academics	for ICT and post-study work visa	RLMT waived for Tier 2 high earners; longer visa for some well-earning ICT; minimum earnings for Tier 2 general and ICT
	Lower skilled access	suspension of generic routes, some bilateral agreements, access mainly for EU-nationals	suspension of generic routes, exclusive access for EU-nationals	suspension of Tier 3, exclusive access for EU-nationals
Origin of skills	Domestic qualifications	post-study work route; work permits for tolerated residents with domestic qualifications	post-study work route; exceptional regularisation of irregular workers in shortage professions	post-study work route and in-country applicants
Scarcity of skills	Resident Labour Market Test	for all entries apart from ICT, scientists and domestically skilled; institutionalised at Federal Employment Agency	for all lower-skilled entries; for skilled jobs which are not on shortage lists or ICT; institutionalised at regional employment agencies	for all Tier 2 (general) entries apart from in-country applications and high earners; not institutionalised, employers' attestation suffices
	Shortage Lists	for skilled and unskilled TCN mainly from A8, A2 and extended Europe (e.g. Croatia)	for higher skilled and skilled TCN (also regularisation); distinct larger list for A2	for selected graduate professions only; instead use of free A8 and A2 movement
Origin	Bilateral agreements	with Croatia for skilled shortages; several EU and European countries for lower skills	with former colonies	x
	Advantageous labour market access	for nationals from some rich countries	for Algerians, if admitted	x
	EU free movement	preference of EU workers in lower-skilled and skilled shortages	preference of EU workers in lower-skilled and skilled shortages	preference of EU workers in lower-skilled and skilled shortages
Numerical limits	Country-specific quotas	in some bilateral agreements, not for high skills	for all skill levels in bilateral agreements	x
	Annual caps	x	x	1,000 in Tier 1 (exceptional talents) and 20,700 in Tier 2 (general) in 2011

Source: own analysis based on comparison of classification maps

6.5 Conclusion

By systematic scrutiny of legal provisions in documents this chapter has condensed and depicted the regulatory framework of labour migration in specifically compiled *classification maps* case by case. These maps offer an initial overview and analytical structuration of commonly applied classification principles, but also hint at national differences in labour admission regimes. This condensed case-by-case and cross-case information sets the empirical-analytical floor for a further scrutiny of the meanings vested in border-drawing processes (R2) and their links to economic, social and politico-legal border-drawing sites (R3) in labour migration legislation in two important ways: it firstly exposes mutual significance of selection by skill level and scarcity of skills. This suggests a strong role for economic utilitarianism, and a great deal of commonality in the countries' market-making and economic border-drawing scripts. But it secondly also highlights that economic utility definitions fall short of accounting for markedly *national* aspects of societal border-drawing. The miscellaneous prevalence of selection by origin, the protectionist policy tools regarding the lower-skilled job market, and numerical limits to migration in the light of electoral agendas point to socio-political concerns that are negotiated within border-drawing. The subsequent chapters access interview data in depth to explore the meanings of individual migrant classification regimes and establish the specific interactions of border-drawing dimensions and sites in each case and across cases, with the ultimate aim of explaining similarities and differences in German, French and British labour migration management comparatively.

The empirical insights gained in this chapter sustain a clear labour division for the subsequent analysis. Chapter 7 will concentrate on the scrutiny of meanings attached to a seemingly shared modus of economic border-drawing by skill level and labour scarcity and its interaction with EU free movement as a context. Chapter 8, by contrast, will focus on the marked cross-national differences in further specifying migrant worker admission policies with nationally distinct references to country of origin, domestic skills or the political objective of numerical net inflow reduction.

7 Classification by Skill Level: Cross-national Economic Imaginaries

“There always has to be a balance entailing different responses for different groups of employees. Well, at the moment [...] we try to be attractive for the highest qualified and high qualified, all whilst offering virtually no entry options for unskilled workers [...]” (GER5-GOV)

“The way I think of Tier 1 is that [...] it greases the engine, they aren't going in there to fill specific roles, but by having those people come here you increase the diversity and quality of the labour market [...]. Tier 2, on the other hand, are the cogs within the engine. [...] they're there for a specific reason.” (UK5-GOV)

The statements by a German and a British policy-maker above point to shared classifications by skill level in European labour admissions. They highlight the perceived need to respond differently to different economic demands in different parts of the economy. The shared legal classification of migrant workers by skill level and labour scarcity is a marked comparative finding from the document analysis, but what do these classifications mean and how do they relate to border-drawing dimensions and sites? Interview data is drawn on to expose the rationales and meanings policy-makers associate with this part of the classification regime (R2), to evaluate their reference to presumptions about border-drawing logics (R3) summarised in table 3.4, and to eventually explain the comparative similarity of classifying workers by skill level and scarcity.

By analysing patterns within policy-makers' interpretations of legal classifications, I identify three shared economic imaginaries which govern labour admission policies across cases. The analytical concept of economic imaginary (CPE, chapter 2) allows me to expose commonalities in the selective arrangement of classification regimes by exposing that similar parts of the social world and economy are selected, privileged and combined in German, French and British border-drawing. This analysis highlights the predominantly *economic contextualisation* of migrant selection by skill level and labour scarcity, even though I start to equally reveal confluences with social and political border-drawing logics (more so in chapter 8 though).

The interview analysis reveals four key ingredients in the selective arrangement of economic imaginaries of labour migration across all three cases: 1) skill-level focus, 2) policy rationales (causal focus), 3) spatial focus of recruitment, and 4) emerging dominant modes of recruitment (operational focus). The selective arrangement of these elements into different imaginaries is guided by the skills divide: the respective privileging of very different economic activities fuels a division of the policy field into three distinct economic imaginaries which, guided by the skills divide, selectively accentuate different policy rationales, spatial reference points and *modi operandi*, and are underpinned by highly miscellaneous metaphorical language (see synopsis in table 7.7). The imaginaries identified and analysed in detail in this chapter are:

- High-skilled global labour competitiveness (section 7.1),
- Skilled national labour shortages (section 7.2), *and*
- Lower skilled EU labour self-sufficiency (section 7.3).

To unravel the meanings and identify normative reference points of the skills division in three economic imaginaries across border-drawing sites, this chapter dedicates one section to each imaginary. The analytical structure by theme – and not by country – mirrors the shared classification by skill level⁸¹ and a shared sense-making of this division across all cases. The chapter thus offers an explanation for the emergence of common principles of migrant worker classification across cases in the light of the shared meanings attached to economic border-drawing mechanisms. While national nuances are acknowledged and explained, the very existence of cross-nationally salient economic imaginaries of labour migration, I argue, accounts for commonalities in its management in admission policies.

7.1 Economic Imaginary 1: High-skilled Global Labour Competitiveness

Classification maps (chapter 6) indicated a beneficial treatment of high-skilled migrants in all three countries, with national legislation facilitating the recruitment of graduate specialists and professional elites (*operational* focus). Interview data indicate a *spatial* contextualisation of recruitment in a genuinely ‘global’ economy with policy-makers framing it as a tool to sustain the national economy’s competitiveness (*causal* focus). Taken together, the arrangement of policy tools and meanings fuels an imaginary of high-skilled global labour competitiveness, which largely corresponds to the logics of innovation and competition state. Notwithstanding the common favourable treatment of high skills, the section also establishes nuances in relation to the embedding of high-skilled migration in national capitalist coordination systems.

7.1.1 Causal Focus: Driving and Facilitating Competitiveness

Policy-makers in all three countries emphasise that high-skilled migration serves the national economic interest. They portray a global competition for the ‘brightest minds’ with the aim of

⁸¹ As the topic guide in table A1 shows, interview questions were open and generic, inquiring main rationales or the strengths and weaknesses of labour migration policy. No question addressed a skill level distinction, so this classification principle emerged inductively from the data, nicely supporting findings of the document analysis.

boosting domestic innovation and economic growth. The basic postulation extensively expressed across cases is that the national economy's success in international competition is inhibited by obstacles to high-skilled migration (statements in Box 7.1). We find clear evidence of economic border-drawing along the lines of Cerny's competition state and Schumpeterian innovation targets in this part of the policy discourse (see section 3.1). Supported by metaphors with strong positive connotations such as 'greasing the engine', 'gold dust' or international football 'champions' allegories, policy-makers construe openness to high-skilled migration as a matter of competition for scarce global professional elites.

Box 7.1: Global Competitiveness Discourse

S1: "We equally have to acknowledge that today, with an internationalising economy; we punish ourselves when we build too big obstacles against workers' mobility" (FRA1-GOV)

S2: "Professional immigration is [...] a tool for growth. [...] We find ourselves in a reasoning of international football, where the big teams recruit in the entire world, and it is these big teams that happen to be in the finals. So [...] if you were to limit your immigration options for great foreign professional players, you could not become champion." (FRA6-GOV)

S3: "I do think at a certain level, however, we are a world economy. And in a world economy, that is where we have Tiers 1 and partly 2, there are people who circulate around the whole world economy, so that is not so much the skill needs of our particular economy, it is the way our businesses work. [...] Global companies operate globally [...] And the question is [...] whether we want those companies to be active in the UK and see the UK as a base. Well, my basic answer to that question is: yes!" (UK8-GOV)

S4: "Someone [...] who works for a certain large UK airway manufacturer [...] takes the view that if someone in this field comes up then we hire them, not because we need a job, but because if we don't hire them General Electric will, and these people are like gold dust." (UK1-BUS)

S5: "One of our primary economic interests is to offer sufficient options and conditions for highly qualified individuals [...] in order to be attractive in a global context. This is where we are in competition with others, especially [...] with the English-speaking countries." (GER10-GOV)

S6: "I think the issue for Germany is simply to remain a technology and innovation location in international competition. [...] the promotion of high potentials [...] is relevant not just for companies, to allow them to sustain their know-how transfer internationally, but also for the entire society" (GER8-BUS)

The very scarcity of high-skilled elites and their almost magical qualities to boost competitiveness, innovation and growth makes them the target of benevolent admission and right regimes in the competition for the 'brightest minds'. Their decision to come to France, Germany or the UK, rather than going elsewhere, supposedly implies a big advantage for the business location as a whole. We can observe the surfacing of a naturalised mythical structure in the

reference to desirable ‘talents’ and ‘potentials’: their huge beneficial impact on the national economy seems to be beyond doubt, and affective language supports the ongoing ‘imagination’ around the talent term (Thrift 2010). To limit recruitment to the national or EU realm is thought to prompt detrimental effects to the competitive position of the domestic business location: “These days, we live and die by our ability to attract inward investment [...] [and] if you are an international business you need the ability to bring people in” (UK1-BUS).

Eventually, the ease with which professional elites can migrate into these countries (i.e. legal entry provisions) is perceived as a key driver of international investment in the national business and innovation location. Put frankly by UK employers: Toyota is unlikely to invest in Burnaston were they not allowed to bring in the Japanese blue collars ‘they need’ to run an electric cars production line in Derbyshire. Policy-makers moreover highlight the fiscal contribution of high-skilled and highly-paid migrant workers, especially those paid ‘stellar wages’ are associated with benefits for the funding of welfare and social services, but also job creation through additional foreign investment. Easy access for investors and entrepreneurs, and employees with particularly high wages, flanks this policy interpretation. The last statement in box 7.1 sees the condition and affluence of the whole society at stake in this context. This strongly mirrors Tony Blair’s understanding of labour migration as being “essential for our continued prosperity” (Home Office 2005: 5).

7.1.2 Spatial Focus: Global Mobility in the World Economy

The main marker of the high-skilled economic imaginary is its genuinely global regulatory perspective. Policy-makers refer to the ‘world economy’ and global competition, and they highlight that globally operating companies need to be able to recruit in the entire world (box 7.1). This leads to the assumption that in order to attract and tie these companies to the national business location and thereby secure investment and economic growth, labour admissions must provide easy, flexible and beneficial access routes for the globally dispersed professional workforce these companies require. In the words of a French official, these companies have to be able to say: “I recruit who I want [...] because this person brings me a bonus in terms of their work, intelligence and innovation [...] We will recruit in France, we will recruit in Europe, we will recruit in the world” (FRA6-GOV). This clearly sets labour migration border-drawing in a spatial framework of a global economy without territorial borders or reference to the domestic labour market situation. It establishes a need to compete for a highly mobile international labour force on a global scale. This is the realm of a ‘global war for talent’ which has arguably triggered the initial re-opening and

gradual liberalisation of entry routes for high-skilled workers since the late 1990s in all three countries (Cerna 2009).

A particularly interesting legal reflection of global competitiveness and mobility aspirations are ICT routes. Both in law and in policy discourse they surface as a matter of global labour markets which do not (have to) correspond to the domestic or EU labour market. Exemptions from control mechanism like the RLMT or shortage definitions apply in all three cases. The British ICT route does not count into annual caps so far⁸² (MAC 2010a: 257ff) and employers have lobbied extremely hard to keep it that way (UK1-BUS, UK5-GOV). Eventually, labour migration policies do not treat ICT as migration, but as temporary and global professional movements completely detached from the host country and domestic labour market. The waiving of integration measures and banned access to long-term residence rights and settlement for ICT workers strengthen this claim. Eventually, border-drawing for high-skilled, highly mobile employees of multi-national companies are conceived as part of a genuinely global economy whose movements across the globe are relatively disembedded from domestic labour market or societal concerns.

7.1.3 Operational Focus 1: Attracting Supply with Beneficial Entitlements

This construal of high-skilled global mobility and competitiveness feeds into a facilitating role for the state as to the construction of legal structures that favour high-skilled migrants (previous section). Selection by high skill level, mostly expressed through qualifications and high prospective wages, is the determining economic border-drawing logic for migrant workers. In general, high-skilled migration routes follow labour supply principles, rather than stipulating a demand-led logic. This contrasts the other two economic imaginaries to be discussed later in which migrant labour can only be an add-on in case of domestic shortages.

One supply-driven rationale of the British PBS in its initial shape, for instance, has been that “the UK can't have enough incredibly highly skilled, talented migrant workers, so let's create a route to let them in” (UK5-GOV). Policy-makers targeted the diversification of high-skilled British labour supply with Tier 1 rather than responses to acute labour market shortages. The introduction of annual caps in Tier 1 has partly distorted the supply logic, but the exemption of ICT routes from annual limits maintains a supply-led approach in this part of Tier 2. A French

⁸² A union representative criticises that ICT migrant workers are not perceived as migrants but as components of a globally mobile talent pool to be offered ‘free routes’ without any reference to the resident pool of labour in the UK, or indeed concerns about potential crowding-out effects (UK2-UNI).

official similarly argues that high-skilled permits such as ‘skills and talents’, ‘scientists’ or ICT do not have to correspond to the domestic labour market, as they will bring a bonus to the economy (FRA1-GOV). Only Germany applies a RLMT to high-skilled elite entries for the permanent residence permit and thus demonstrates more emphasis on domestic labour supply, but regulation equally excludes ICT workers from the RLMT.

The regulatory shortcut to growth and competitiveness is paved with attractive regimes for high-skilled migrants and facilitated professional mobility across the globe (chapter 6). This operational perspective has even born more global ramifications on European and OECD level, and an increasing number of academics internalise the alleged benefits of liberal high-skilled migration regimes (Cerna 2009; OECD 2009; Zaletel 2006). Their creation of indices to rank countries’ openness in that respect announces the emergence of a new subset of the competitiveness ‘knowledge brand’ (Sum 2009) in which countries have to compete on liberal entry regimes. The most advantageous system is currently embodied by the German permanent residence permit, but also the French multi-annual routes (e.g. ‘skills and talents’) and the British Tier 1 (exceptional talents) offer relatively secure residence, easier and more comprehensive labour market access – often without any reference to the resident labour market – than all other work routes. Most interviewees also mention post-study work routes as a tool to attract current and prospective graduates as specialists to be.

It is important to qualify that despite the overwhelmingly positive rhetoric accompanying high-skilled migration, the scope of these favourable regimes is limited in practice. Entry figures per type of permit (flow figures in chapter 6) have indicated that states do by no means open up large entry and residence routes here. Apart from the higher entry figures of ICT workers in the UK – which triggered criticism and a stricter redefinition of the route – the scale of high-skilled inflows has remained rather small, especially compared to shortage work routes. Low numbers of inflows certainly also sustain the treatment of high-skilled migration as a primarily *economic* question which is mostly disembedded from further social and political concerns. Policy-makers argue, for instance, that the small number and high qualifications of entries avoided public acceptance problems (e.g. UK2-UNI, UK8-GOV, GER5-GOV). Chapter 8 will expose ways in which some of these concerns do nonetheless complicate the global competitiveness imaginary. Yet, it will also highlight the lesser extent of interaction of high-skilled foreign recruitment with social and political border-drawing logics compared to skilled and lower-skilled entries.

7.1.4 Operational Focus 2: Varieties of High-skilled Migrant Recruitment

Statements in box 7.2, once again highlight the perceived importance of 'facilitation' and 'being helpful' to global companies with their professional recruitment, and supporting high-skilled professional elites with their migration. Despite this common understanding, we find some nuances of economic border-drawing in national legislation. These confirm VoC induced logics to some extent, indicating that capitalist coordination remains a source of comparative difference and nuances within the imaginary of high-skilled global labour competitiveness.

Box 7.2: Beneficial Rights for High-skilled Migrants

S1: "[...] the role of residence regulation has to be facilitating to some extent. So, residence legislation is no end in itself but a means to achieve certain objectives. That concerns the mentioned objectives, our interest to recruit high and highest skills. So, we have to design our residence law in a way that does not discourage the Canadian professor to come to Germany because he has some problems with the labour market access for his wife [...]" (GER10-GOV).

S2: "Our social protection system and our labour law is indeed a trump card that we can make the most of. It equally protects foreign employees [...] and is interesting for the highly qualified." (GER3-GOV).

S3: "The skills and talents permit, I think, reflects the interest of the French state, it is about France's attractiveness for highly qualified people [...] companies don't check whether it is a permit for skills and talents, or whether it is [something else]. [...] I am not sure that companies identify themselves with one permit or another; it is a tool for them." (FRA7-BUS)

S4: "I mean we've got to be helpful to those sorts of companies - to the Japanese companies for example, massive inward investment in Britain - while possibly excluding the marginal migrants. And for me the marginal migrants on the intra-company transfers would be the Indian IT workers. Not all of them, but at the margin - I mean there's 25,000 of them, last year. [...] The marginal one thousand are probably not contributing very much, whereas the Japanese production engineers are contributing a lot to the British economy, and therefore, who are you going to exclude is very important, that you don't exclude the Japanese production engineer." (UK4-ADV)

Policy-makers in Germany, for example, adhere to the idea that regulation needs to welcome workers "with a red carpet" (GER3-GOV), and it is through the tool of most favourable residence rights that German administrators think they can best provide this red carpet. A self-perception as 'enabling facilitator' in line with discourse-oriented VoC claims can be read from this policy discourse (Schmidt 2002). Germany's border-drawing regime also confirms the claim that high and specific skills typically required in a CME rely on institutional support through high levels of social and job security (Estevez-Abe, Iversen et al. 2001). One official explicitly refers to the comparatively generous German social protection system as a particular strength in the competition for talents (statement 2). Moreover, we see how the cornerstones of the CME

production and labour reproduction system are being re-tailored to suit high-skilled migrants: not just the typical job and employment security, but also residence security and comparatively generous labour market access shall generate supply of high-skilled foreign individuals for German companies.

Interview data from France suggests a self-perception of the administration as promoter, rather than just facilitator, of highly-skilled recruitment. The ‘skills and talents’ permit, for example, arises in a rhetoric of ‘splendour’ and ‘shining’ (*rayonnement*) of the country and nation as a whole, and refers to the promotion of its role in the world (see Loriaux 2003). Equally, the post-study work visa is considered to be “part of France’s attractiveness” (FRA1-GOV). One expert emphasised the “emblematic function” of permits with enchanting names like ‘skills and talents’ to signal French openness to the world (FRA6-GOV). Another official highlighted the administration’s role to promote new permits among employers, and to educate them towards a more conscious and embracing use of the created recruitment routes (FRA5-GOV). This explains why the employers’ representative in statement 3 construes the ‘skills and talents’ permit as a tool *for France*, rather than a tool for French companies per se. The variance between official rhetoric and employers’ perceptions of regulatory need indicates a *modus operandi* of *state-enhancing* capitalism in French labour migration policies: we witness, at least partially, an attempt of an ‘interventionist leader’ state to shape the market according to an a-priori vision of French competitiveness, rather than to facilitate companies’ demands a-posteriori (Schmidt 2002: 204).

Chapter 5 argued that the introduction of annual caps in the UK implied a considerable shift away from the emblematic ‘liberal arbiter’ (Schmidt 2002). While the initial openness to employers’ calls for unlimited high-skilled labour supply under the PBS – and indeed the liberal response to A8-migration – has been interpreted as a typical LME response to labour migration needs (Menz 2009), recent policy changes after the 2010 general elections convey a more ambivalent message (chapters 5 and 6). Eventually, the role of Tier 1 high-skilled supply to ‘guild the lily’ in the national economy (UK5-GOV) is currently crumbling. At the same time, however, the exclusion of the comparatively numerous ICT entries from the cap points to a continuation of relatively liberal and employer-led recruitment (UK2-UNI, UK4-ADV). Statement 4 in Box 7.2 emphasises the political wish to maintain the global competitiveness logic for the ‘Japanese production engineer’ within the ICT routes also under an otherwise restrictive annual cap, but equally highlights the attempt to cut back on ‘marginal’ IT worker inflows. The fact that these IT workers happen to be Indian is certainly no coincidence and stresses the relevance of post-colonial labour geographies in the context of competitiveness interpretations (chapter 8.3).

7.2 Economic Imaginary 2: Skilled National Labour Shortages

Skilled admissions are by far the numerically most significant legal work entry routes. Chapter 6 has shown that, by contrast to the high-skilled domain, skilled employees in all three countries encounter stricter entry and residence conditions (*operational* focus). These routes are related to specific skilled labour shortages that need filling (*causal* focus), and as such are firmly embedded in the national labour market context (*spatial* focus). Yet, the mapping also found differences in the use of labour scarcity classifications in this realm as to the level of institutionalisation of the RLMT, for instance. This section scrutinises the emerging imaginary of skilled national labour shortages, its meanings and nuanced specification in detail. While the focus on specific vs. more generic skill shortages confirms economic border-drawing logics, the interaction with a domestic employment and skilling agenda indicates trade-offs between domestic and outward-looking economic coordination targets.

7.2.1 Causal Focus: Demand-led Response to National Skills Shortages

The second imaginary focuses on skilled labour. It conceives foreign labour recruitment as a legitimate satisfaction of urging labour demand, while specifying clear limits to demand-led admissions. Policy experts employ terms like ‘economic need’, ‘demand’, ‘specific shortage’ and ‘add-on’ abundantly to describe utilitarian recruitment drivers and specify migrant workers’ role. According to statements in box 7.3, migrants fill labour market gaps and satisfy companies ‘immediate’ needs. Temporary permits and entry routes for paid employees in all three countries speak to short- and mid-term shortages on national, regional, or sometimes even district level and sectoral labour markets.

The recruitment rationale is the satisfaction of urging labour market demand. Statements in box 7.3 portray a direct relationship between labour market gaps and legitimate recruitment: Germany needs skilled workers, France wants migrants to satisfy labour market needs and companies ‘immediate’ needs, and the UK’s Tier 2 looks for ‘cogs in the engine’ to fill specific shortages. Statement 2 pinpoints a fine line between workers ‘who bring a bonus’ enabling ‘better growth’ (high-skilled) and those who fill an urging shortage (skilled). Unlike in the previously described imaginary, recruitment of foreign workers is not valuable in itself as booster of competitiveness; recruitment rather addresses concrete and specific domestic shortages. Labour migration fulfils a ‘specific’ role in this context: the availability of the right ‘cogs’ – or skills – is essential for the smooth running of the national economy’s ‘engine’ (UK5-GOV). We seemingly leave the normative framework of an all encompassing competition state here.

Box 7.3: Migrant Labour as Short-term Response to Domestic Labour Market Shortages

S1: “Why do we need labour migration? Because we need skilled workers (*Fachkräfte*). That means that the labour market is in the centre. [...] So the main rationale is: labour migration as an add-on where the domestic labour market does not supply enough employees but not where we have enough domestic workers. This is the be-all and end-all of labour migration.” (GER3-GOV)

S2: “We always have this tension a little bit: on the one hand to satisfy the demand of the labour market for workforce, and on the other hand, given the unemployment situation, to steer migration in a way so that the domestic labour market does not bear negative consequences.” (GER5-GOV)

S3: “The foreign worker is someone who satisfies labour market needs, or who brings a competency with them - a bonus - that will enable better growth. Eventually, everyone benefits. But under no circumstances [...] is the foreign workers someone who ruins French jobs.” (FRA6-GOV)

S4: [*compares shortage routes to ‘skills and talents’ route*] “Work permits for lower-skilled jobs are of particular interest for companies’ immediate needs. I don’t think that’s the same. [...] It’s not the same competition, effectively. People [in shortage route] compete for jobs on the French labour market.” (FRA7-BUS)

S5: “The way I think of Tier 1 is that [...] it greases the engine, they aren’t going in there to fill specific roles, but by having those people come here you increase the diversity and quality of the labour market [...]. Tier 2, on the other hand, is the cogs within the engine. Sorry about the poor analogy! But they’re there for a specific reason.” (UK5-GOV)

Economic demand notionally stems from qualification mismatches (especially engineering, IT, some nursing and medical staff), specific skill needs of some sectors (i.e. ethnic cuisines), but also the unattractiveness of certain jobs due to its location or poor wage conditions (particularly for publicly funded sectors and certain low profit margin sectors; UK4-ADV, UK5-ADV). Labour scarcity thus emerges as key classification principle (see below). Unlike their French and British counterparts, German policy-makers predominantly perceive long-term shortages related to demographic shrinking and ageing (chapter 5). Interviewees in Germany argue that the decreasing domestic workforce and simultaneous increasing demand for elderly care makes shortage recruitment a viable strategy.

7.2.2 Spatial Focus: Embeddedness in the National Labour Market Situation

Unlike in the previous ‘de-coupled’ political economy of labour migration interviewees present shortage recruitment as directly related to resident employment and the domestic labour market situation. Economic border-drawing for migrant workers is embedded in the national labour market, regardless of the excellence of their qualifications. Box 7.3 indicated that foreign workers must not ‘ruin French jobs’, for instance. Government officials construct TCN workers as

legitimate 'add-on' to the labour force where the domestic labour force cannot satisfy demand. The 'add-on' connotation is central to this imaginary and firmly connects it to the domestic labour market. In contrast to the first imaginary, domestic labour market protectionism prominently enters the stage, limiting the reach of the competitiveness logic. Migrant workers compete from a subordinate position on the domestic labour market for very specific jobs, rather than being perceived as part of an attractive globally free-floating labour supply. They are also targets of integration policy efforts: governments assume – partly based on 'lessons learned' from the guest-worker period (chapter 5 and 8) – that skilled workers are less mobile and might settle but their lower qualifications – as compared to multi-lingual cosmopolitan high-skilled elites⁸³ – also imply that the integration process is no automatism. A conflation of economic border-drawing with politico-legal integration demands explains why integration contracts such as the French *CAI* or language proficiency requirements apply to workers in this imaginary.

Skilled workers are not seen as beneficial due to surplus skills or competencies they bring to the national economy (as high-skilled entries), but they potentially threaten domestic employment and need to be checked tightly before being able to fulfil labour shortages. This ambiguous position between 'beneficial' and 'threatening' informs a veritable skills border which delimits the applicability of selection by labour scarcity as guiding principle: statement 1 in box 7.3 refers to a cut-off of the demand-led recruitment approach for lower-skilled jobs and the aim to use the domestic workforce to fill shortages. This understanding demarcates the borders between legitimate shortage recruitment and domestic labour self-sufficiency. Section 7.3 analyses the imaginary of lower-skilled self-sufficient labour in depth.

7.2.3 Operational Focus 1: Assessing and Controlling Shortages

With a reference to the domestic labour market situation the handling of skilled shortage recruitment is much more restrictive than of the high-skilled routes from the outset in all three cases (chapter 6). The shortage routes set up in legislation mirror the 'add-on' perception of foreign labour in their strict orientation on demand-led selection and on specific skills profiles. Temporary permits and entry routes for paid employees in all three countries speak to short- and mid-term shortages on the labour market and reflect a strong economic utility interpretation of migrant labour which can be imported – and indeed expelled – according to changing economic needs. For instance, the German government describes shortage recruitment as a 'flexible and

⁸³ GER5-GOV argues that a high-skilled job serves as proxy for anticipated successful integration.

demand-oriented' strategy to *react* to changes in economic demand, the labour market structure and the economic situation and downscale in terms of economic crisis (GER5-GOV).

The shortage routes thus create constrained legal work spaces for skilled migrant workers: migrants are tied to the defined shortage space by fixed-term permits and obligatory links to their employer, and might not have their temporary permits extended if the shortage ceases to exist or domestic unemployment rises due to economic downturns. This departs considerably from the longer term perspectives offered to 'experts' and 'talents' in the former imaginary. A job offer is obligatory and the employment with the specific employer a prerequisite for continued legal residence. Policy-makers see the migrant-employer link – most pronounced in the UK's sponsorship approach – as a viable way of monitoring both parties in short-term labour market shortage situations. The confinement of the shortage recruitment approach to certain 'key industries and sectors' (GER2-GOV), professions or labour districts, and the role of 'responsible' conduct given to employers as 'partners' in migration control (UK8-GOV, GER10-GOV) further demonstrates the tight monitoring of labour admissions in this realm.

While the first imaginary is driven by economic supply-side strategies to recruit 'the best' irrespective of scarcity (or in the belief that they are by default scarce), demand-led recruitment dominates the skilled shortage imaginary. Employers need to present 'good reasons' (FRA2-GOV) to convince employment and border agencies of the inevitability of foreign recruitment. Migrants need a specific VET certificate equivalent or higher education award to prove they can fill the specific shortage described in their job offer. Indeed, this matching of migrants' skills profiles to specific shortages in the host labour market – either via the RLMT or a shortage list – has earlier been identified as a key principle in TCN worker admission (chapter 6).

Despite the common operational focus on matching of precise labour demand and supply and controlling the emerging job position for a TCN worker tightly, there are some cross-national differences as to the organisation of this matching, partly confirming VoC claims. All regimes display a sectoral focus in shortage assessment, but Germany features the strongest institutional crystallisation and hence confirms the often attributed character as tightly coordinated sectoral CMEs with specific skill needs (Kitschelt, Lange et al. 1999a). To identify specific skill needs by sector and feed them into migration legislation, shortage route definitions, and domestic training efforts the German government has initiated an 'alliance on skilled workers'⁸⁴ (*Fachkräfteallianz*) in 2009. In the UK, the MAC fulfils a similar role, but its consultation process on shortage

⁸⁴ This brings together some government resorts - such as Labour, Economy, Education, Home Affairs - the Länder, trade unions, employers' associations, Chambers of Crafts and of Commerce, some companies and board members, and researchers.

occupations comes with a less coordinated and corporative dressing than the German version and focuses on the gathering of 'scientific evidence' for shortages. They are also defined in much more general skills terms, hence confirming LME patterns to some extent. In France regional employment agencies calculate shortages from their centralised labour supply and demand databases (no such system exists in the UK, for instance).

Similarly, the strong procedural involvement of employment agencies in the RLMT in France and Germany, and the labour market protection clause in the lower-skilled realm in Germany indicate a stricter application of the scarcity principle than in the UK with its attestation-only RLMT. Indeed, employers' appraisal of the RLMT route in the UK as a 'flexible' recruitment route (UK1-BUS) has triggered scepticism about the effectiveness of shortage assessments and domestic labour protection (UK3-ADV, UK7-ADV, NAO 2011). Due to the firm institutional links between general labour market policies and migrant shortage recruitment in their countries, policy-makers in France and Germany seem less concerned about this. Indeed, the various degrees of institutionalising labour scarcity assessments as part of a wider employment regulation reflect the different philosophies of labour market governance and in LMEs and CMEs. The assessment of labour shortages – as corporative consensus-building in Germany, scientific assessment of an employer consultation in the UK, and administrative output of centralised French employment agencies – speaks of marked institutional differences in the labour market coordination, and nuances the economic coordination of shortage recruitment comparatively.

7.2.4 Operational Focus 2: Managing Domestic Labour Markets

Policy discourse draws an important boundary between short-term and long-term TCN recruitment by alluding to future aspirations for a 'sensitive' domestic skills strategy. The German skills alliance and MAC shortage lists both address an important longer term policy-driver which makes intelligible the link between the perceived need to recruit and the simultaneous tight control of skilled entry routes. Interview data from all three cases, and some policy documents (BMAS 2008a; MAC 2010b), suggest a crucial distinction between short-term responses to labour shortages and long-term labour market strategies. Policy-makers see a prospective need to train the domestic workforce and become less 'reliant' on migrant workers. While it seems acceptable to recruit skilled workers into shortages today, employers are asked – and indeed claim themselves to be committed – to develop domestic labour supply strategies for the future at the same time (box 7.4).

In Germany and the UK shortage recruitment is accompanied by the perceived need to train the domestic workforce, but the extent to which this claim is institutionalised varies. There is

evidence for a degree of institutional complementarity between migration and VET systems as labour reproduction strategies in Germany which confirms CME logics. Policy-makers address a 'dual strategy' of recruiting into current economic gaps and at the same time measuring and investing in specific training to increase job opportunities of the resident labour force and close the gaps self-sufficiently⁸⁵. The corporately structured skills alliance is designed to functionally link scarcity assessment, legitimacy of migrant labour imports, and the need to train for prospective self-sufficiency. It is the considerably different demographic situation again that is being emphasised as a seemingly technocratic policy driver in this context.

Box 7.4: Long-term Aspirations to Skill Domestic Workforce

S1: "One is an issue which is solvable in the long term but not in the short term, which is where there are skills shortages in the UK, and we've always talked about labour migration policy within a skills framework, because I think it is acceptable to say to the government: there is a skills shortage here, we can't hire someone else, can we have someone from outside the EEA? Now, it might not be acceptable to still be asking that question in ten years time, if the government says: well, what exactly did you do on skills development in the meantime? - you can't be reliant." (UK1-BUS)

S2: [*defining 'sensible' shortage recruitment*] "The [...] question is important because immigration isn't... you know, just because there's a shortage doesn't necessarily make an automatic case for immigration. Immigration can be an efficient way of responding to a shortage, but it's often not the only way. [...] So when we talk to employers, we say: ok, we accept that you have a shortage. We also ask: what are you doing about it? Have you tried to raise wages? Have you tried to train domestic workers? Have you tried to mechanise?" (UK7-ADV)

S3: "The task of the alliance [which shall establish labour demands] is to consider the following issues: how do supply and demand develop in the medium term on the labour market? How can we sensibly steer education and training? And which jobs can we not fill from the available labour pool but might need to satisfy them with migration?" (GER3-GOV)

Policy-makers in the UK equally express hopes of incentivising employers to signal shortages 'more systematically' to educational institutions and Sector Skills Councils, and to provide more funding for training. Proposed policy tools like linking sponsorship certificate allocations to companies' efforts of 'upskilling' (UKBA 2010) sustain this claim. However, in the absence of a standardised VET system the responsibility for training is an issue of contestation⁸⁶ in the UK. The government seems determined to win this tug-of-war by creating new realities: with the decision to lift the skills level needed in Tier 2 (general) to graduate only, the removal of

⁸⁵ Germany applied this approach for the so-called Green Card, when money went into IT training courses alongside the recruitment of TCN IT specialists (GER9-GOV).

⁸⁶ Employers and Sector Skills Councils call for government funding instead (UK1-BUS, UK6-ADV).

several occupations from the shortage list in 2011, and the vague announcement of ‘priority areas of upskilling’ authorities seemingly incentivise employers to recruit from within the EU and/or revise training strategies (UKBA 2010; UKBA 2011b). Regardless of the practical feasibility or political seriousness of the claimed domestic training efforts, the aspiration in itself demarcates borders for TCN workers as the redefinition of the UK shortage list shows.

French policy-makers do not link the longer-term debate to training explicitly, but more vaguely to the ‘activation’ of domestic workers, without much consideration of how that shall be achieved. Even though one representative diagnoses a “co-existence of a high unemployment rate [...] and at the same time non-satisfied demands for labour of companies, as there is no evident correlation between these two populations” (FRA7-BUS), they do not relate this finding to training pledges. We can only make sense of this absence of engagement with the French political economy in a joint review with chapter 8. Policy experts argue that French labour migration policy is not genuinely about the recruitment of workers – also due to the very different demographic outlook of population growth – but about ‘signalling effects’ of ‘desirability’ to the resident population (FRA3-UNI, FRA4-ADV, cf chapter 5). With a discursive focus on ex-post regularisation via the shortage lists or the specific shortage jobs offered to certain nationals in bilateral agreements, the French debate around skilled labour shortages presents itself much more detached from economic need debates and technocratic measurement attempts. It strongly speaks to socio-political border-drawing activities which chapter 8 will elaborate.

Regardless of variations within the skilled shortage imaginary and its institutional reference points, the economic space of a ‘shortage’ shares some crucial cross-national features: it is no statistical entity which neutrally expresses current demand and supply for a specific job position to justify TCN recruitment. Rather, the borders of the shortage space are demarcated in light of governments’ aspirations about the current and future labour market participation of resident vis-à-vis migrant workers. That means that any outcome of scarcity assessment – through updated shortage lists, ‘skilled demand’ alliances, or employer consultations – will by no means directly translate into migrant admissions: “just because there’s a shortage doesn’t necessarily make an automatic case for immigration” (box 7.4). Eventually, the interaction of economic border-drawing with a domestic employment and skilling agenda indicates trade-offs between domestic and outward-looking economic coordination targets: protectionism of the current and prospective domestic labour force and qualification system kicks in to variably demarcate the space of a labour market shortage as a legitimate place for a migrant worker to enter the national labour market.

7.3 Economic Imaginary 3: Lower Skilled EU Labour Self-sufficiency

The mapping exercise in chapter 6 has, finally, identified virtually no legal entry routes for lower-skilled TCN workers (*operational* focus). Outside the scope of the shortage imaginary described above, regulation in all three countries responds to labour scarcity overwhelmingly with a EU labour geography logic, assuming that domestic and EU labour supply can abundantly fill gaps and shall indeed do so with regard to labour activation targets (*causal* focus). *Spatial* references to domestic and EU labour markets bear substantial implications for TCN labour migration border-drawing. The politico-legal border-drawing between EU free movers and TCN workers severely restricts economically-driven entry options for the latter, and concerns about domestic employment and welfare add to this bifurcation. This section illuminates the emerging imaginary of lower-skilled EU labour self-sufficiency and its country-specific nuances.

7.3.1 Causal Focus: Preventing Unemployment and Activating Domestic Workers

In support of the mapping in chapter 6, we find a wide-spread denial of low-skilled labour demand by policy-makers in all three cases, with the exception of the strictly controlled and temporary seasonal agricultural routes that are not part of this analysis. The main rationale behind this concerns national labour market and employment policy considerations. The underpinning assumption of statements in box 7.5 is that lower-skilled labour is in abundant supply on the domestic and European labour market and does therefore not need to be imported from third countries to fill positions. The official regulation puzzle in lower-skilled recruitment is therefore not about the management of shortages including migrant labour import as one strategy, and it is indeed far from being about a country's attractiveness to desired migrant workers; it is rather about the best mechanisms to shift the notionally amply available domestic and European workforce into given lower-skilled jobs and prevent migration.

Several policy-makers perceive a double reference to the domestic unemployed population within this imaginary: a) as a workforce to be activated – also with penalising measures if necessary – and b) as a politically susceptible group to be protected from labour market competition with TCN workers. The first idea emphasises the responsibility (or for some even 'obligation') of resident workers to respond to lower-skilled labour shortages. A French employers' association representative further restates the role of French companies in the administration of the unemployment insurance and their obligation to treat the French labour pool with priority (FRA7-BUS). A British interviewee mentions recruitment difficulties for butchers and meat-cutters – at the time of interviewing part of the shortage list – due to hard working conditions

in ‘cold temperatures’ around ‘chunks of meat’ and calls for a tightened work first activation approach. In this view, job-seekers should ‘pull their socks up’ and do the lower-skilled jobs that are available, also under threat of a cut in job seekers’ allowance (UK6-ADV). Welfare and workfare concerns with regard to the domestic workforce drive the recruitment restrictions of lower-skilled TCN workers. Other policy-makers feel that better working and wage conditions should be offered to British workers in sectors like food processing or catering. Like their French and British homologues, German policy-makers perceive “no use for un-steered or lower-skilled migration” (GER10-GOV) and express a clear role for German job-seekers to fill positions.

Box 7.5: Self-sufficiency, Domestic Unemployment, and Activation Targets

S1: “By no urgent means do we need lower-skilled workers. [...] We have enough resident job seekers who we would like to activate and lead to employment in that context.” (GER3-GOV)

S2: [talks about demand for seasonal agricultural workers] “I do not see that for other sectors. Well, [...] unemployment of the lower-skilled is still so high as to make it [recruitment of foreign workers] politically difficult to imagine.” (GER5-GOV)

S3: “It’s not completely normal that we lack wood-cutters in France, if you wish, this does not demand a high qualification. [...] We should be able to demand and offer a job to low-skilled unemployed people in France, as a kind of obligation. But we most often find that, unfortunately, that’s not what happens, meaning that the individuals under consideration are not capable or willing to do the job” (FRA6-GOV)

S4: [on lower-skilled shortage list jobs which have been removed in March 2011] “Why aren’t we actually skilling up the unemployed to do some of these jobs? [...] There are occupations on the list like butchers and meat cutters, which train up within 12-18 months with less investment. So why aren’t we doing that, why are we bringing in labour to do that? [...] And actually if that is, if the opportunities are very low-skilled labour that anybody could do, then those people then need to go to those jobs [...]. But I think that over the last so many years there has been so much choice, this is, there’s been the choice to stay at home where people are paid more to stay at home than to go to work. [...] I think there is enough people in this country to fill these positions and I actually think that is something that the DWP [Department of Work and Pensions] should be addressing in their work.” (UK6-GOV)

These narratives indicate strong discursive links between lower-skilled shortages and political targets to activate the resident unemployment population. Policy-makers discuss the boundary between ‘normal’ and ‘abnormal’ shortages in that respect (box 7.5) and hence address the fluidity of ‘legitimacy’ of foreign labour recruitment. In fact, the matching of empirical phenomena with legal matters of fact fluctuates in a grey area between the skilled shortage imaginary and the self-sufficiency imaginary. While woodcutting might be a shortage job today, and thus form part of the shortage imaginary de facto, the political aspiration might be to move it into the self-sufficiency realm. A similar observation has been made with regard to the UK’s

changing shortage definitions (i.e. meat cutters) before. Moreover, the notion of domestic workers' obligation to contribute to a self-sufficient lower-skilled labour supply is conflated with their right to be treated with preference on the domestic labour market. Policy-makers moreover consider the public – and electorate – to be sensitive to unemployment and hence sceptical of foreign labour recruitment on lower skill levels. Chapter 8 will present policy interpretations which sustain that this political calculus has played a crucial part in the 2010 UK elections, but it also shapes labour migration border-drawing elsewhere.

7.3.2 Spatial Focus: An Emerging EU Labour Geography

The described policy drivers of domestic workforce protection and activation lead to a spatial concentration on the EU labour market. Even if policy-makers indicate protectionist targets with regard to their own national labour force, EU integration and the imperative of free movement requires that any labour protective measure for nationals from one member state must include all other EU-nationals as well. Exceptions in transitional agreements for the A8, Bulgaria and Romania have been temporary (A8-workers enjoy full free movement since 1 May 2011) and both France and Germany focused on these countries in their bilateral shortage recruitment for skilled as well as lower-skilled jobs (chapters 5 and 6). The politico-legal border-drawing site of EU citizenship heavily curtails entry options for TCN workers; EU free movement determines lower-skilled recruitment options within an emerging European labour geography.

Statements in box 7.6 expose EU free movement as prime normative reference point for lower-skilled needs. This departs from the skilled shortage imaginary where current graduate and VET level shortages served as recruitment legitimisation beyond the EU as well. Whether EU labour supply operates on a basis of liberal free movement (UK) or via more cautiously controlled routes (Germany and France): policy-makers across cases entirely reject the notion of lower-skilled labour need from outside the EU. Policy-makers argue that there is a vastly abundant labour supply, if not nationally, than 'certainly from the EU' (UK8-GOV, see box 7.6), and associated domestic and EU-internal training aspirations come up in this imaginary again as well. While the European character of low-skilled labour supply is stretched and is largely empirically supported in the German labour geography, policy-makers seem to silence the de facto post-colonial dye of informal labour market segments in France and a reality of often Chinese gangmaster employment in Britain (chapter 5). Chapter 8 will reveal these links in detail.

7.3.3 Operational focus 1: Varied Embeddedness in EU Labour Geography

Based on this abundant labour supply assumption, governments have put into practice mechanisms to recruit lower-skilled labour almost exclusively from within the EU. Certainly, emerging opportunities for new EU member state nationals to work in lower-skilled sectors varied massively from the liberal free movement approach in the UK, over a quite encompassing list in France, to a strict control of few selected lower-skilled shortage routes and bilateral agreements in Germany. Alas, the border-drawing effect for TCN workers was the same (and will be when free movement is fulfilled): the preference of EU workers reduced their entry options to high-skilled and some selected skilled routes.

Box 7.6: Self-sufficiency, EU labour Pool and Free Movement

S1: "Forget about the bilateral agreements. With the implementation of full free movement, bilateral agreements will vanish, I'd say. Now, it might take a bit longer with Croatia until they are member and enjoy free movement, but it otherwise does not play any role." (GER5-GOV)

S2: "Well, we have to see whether there will be lower-skilled demands at some point, but that will now partly be equalised by the prospective free movement of workers from Bulgaria and Romania in 2014. So, in that respect, I think we will not have extraordinarily huge demands in the near future." (GER7-BUS)

S3: *[talking about the lower-skilled shortage list for Bulgarians and Romanians in comparison to the skilled shortage list for TCNs]* "Well, the issue is a bit different. Because for EU-nationals from enlargement countries the idea has actually been to use the European labour force, so it [the shortage list for Romanians and Bulgarians] covers virtually all professions." (FRA7-BUS)

S4: "I do believe that the EU can provide for most shortages, [...] even within the UK, if there are serious shortages, for example of plumbers, then the solution is to train up more plumbers in the UK and certainly from within the EU as a whole. And that would be my first priority for trying to balance [...] labour market problems." (UK8-GOV)

S5: "Our experience shows [...] that the experience of countries coming into the EU is that they grow very fast up to the European norm, and then slow back to trend. In that light, then push factors for young Polish and Lithuanian people in particular because those are big countries, are going to be much lower. Why get on a flight to come to England, if you can get a job that's just as good and doesn't pay a lot less around the corner. Why pick asparagus in Germany is an equally good question!" (UK1-BUS)

However, some policy-makers in Germany address potential future labour needs from outside the EU (also statement 5 in box 7.6). They frame this expectation in the light of ageing European populations – a particular fear in the German context. Moreover, decreasing wage differentials and migration push-and-pull factors between the new EU states and the EU-15 are also believed to trigger prospective labour demand from elsewhere. In case the question "why pick asparagus

in Germany?” arises for Eastern Europeans, policy-makers seemingly want to keep the backdoor of controlled, utilitarian, and strictly bilateral recruitment open.

Comparative mapping also indicated that Germany extends the imagined EU pool of labour to accession candidates in bilateral recruitment (Croatian care workers). This is interpreted as a pre-accession simulation of free movement in which wage and qualification differentials are cushioned to prevent negative effects on the German labour market. Similar considerations shaped the decision to apply transitional limits to free movement to the A8 and put workers from the Eastern Europe in an in-between position between the skilled shortage imaginary and self-sufficiency claims: they were treated more favourably than TCN workers with easier access to lower-skilled shortages but they were not yet enjoying free movement and equal labour market access as compared to Germans. In the lower-skilled segment of the economy, we thus observe a strong underpinning of migrant classifications by the normative framework of EU free movement played out in the politico-legal dimension of border-drawing.

The use of the EU labour pool is largely seen as beneficial for the British economy by UK policy-makers. A skills council advisor refers to the large dependence on Polish workers within the food processing sector, for instance, and argues that companies would struggle enormously to fill these jobs if it were not for A8 free movement (UK6-ADV). Statement 5 in box 7.6 highlights interdependencies within the European labour geography and expects repercussions of the German and Austrian decision to open up their labour markets eventually. This indicates that TCN labour migration is not just structured by the norms of EU free movement with respect to defining preferable sending countries, but it is also shaped by other European host countries' position within the same labour geography.

7.3.4 Operational Focus 2: Managing Variable Geographies of Informal Labour

The relative absence of encompassing French statements on the EU labour geography debate above is striking. Only one policy-maker (FRA6-GOV) refers to EU free movement as structuring context, even though the special list for Bulgarians and Romanians indicates an institutionalised beneficial treatment. The common legal classification of EU vs. non-EU workers across cases (chapter 6) and national interpretations of these principles seem to diverge in accordance with the distinct labour geographies under scrutiny (chapter 5). Similarly to the discursive non-engagement with prospective training efforts to steer labour supply in the previous section, policy-makers in France concentrate on the role of post-colonial flows and the informal labour market to frame the meaning of lower-skilled recruitment. The strong correlations between low-skilled migrant work, informality, and post-colonial migrant descent in the French case explain this

position. Some doubt the economic and demographic necessity of European low-skilled recruitment, arguing that the large share of mostly post-colonial migrant residents forms a substantial and sufficient – yet often informal – labour pool (FRA3-UNI). For some observers, therefore, professional migration schemes in France embody “l’affichage d’une volonté politique”⁸⁷ (FRA2-GOV). The strong focus on high-skilled and skilled shortage entries in documents⁸⁸ and interviews is accompanied by a silence on the economic contexts of shortages or domestic training strategies. Critics thus argue that the third economic imaginary rhetorically disguises tensions in the real economy and further marginalises an informal migrant workforce (FRA4-ADV). It seems that the distinctly post-colonial labour geography – of which the UK disposed itself earlier and more pragmatically and which Germany lacks completely – and ongoing politicised debates about contemporary citizenship (chapter 5.2) significantly shape border-drawing in France. Chapter 8 explores these socio-political logics in more detail.

Apart from some reference to the integration of *Geduldete* in the labour market prior to new TCN recruitment, informal migrant labour is absent from the German debate. Unlike in France, interviewees do not perceive any influential external ‘migration pressure’ due to a lack of colonial links and geographical distance to the peripheries of Europe (GER10-GOV). They argue that this creates a ‘relatively unencumbered’ situation for policy-makers (GER5-GOV) and legitimises a utilitarian recruitment approach without sense of obligation to a historical dependent. As Germany’s informal flows were often Eastern European (chapter 5.1) experts expect a de facto legalisation of large chunks of informal employment with comprehensive free movement. With the extension of the EU, the ‘problem’ of informal labour is perceived to largely disappear. Economic-utilitarian and politico-legal border-drawing principles seemingly coincide quite smoothly in the German case, very much in contrast to France and the UK.

In the UK, lastly, the absence of references to informal migrant workers or post-colonial flows as targets in labour migration policy is even more striking given the comparative relevance of informality (chapter 5). Only one trade union representative mentioned ‘irregular workers’ in the interview, but asked to keep their comments on the matter off the record (UK2-UNI). The absence of post-colonialism and informal labour market segments in the UK discussion will be analysed in chapter 8. Overall, it seems that references to norms inscribed in different citizenship regimes, but also nationally distinct labour geographies create distinct pretexts and contexts for lower-skilled labour migration management, and help to explain variations in border-drawing.

⁸⁷ Announcement of a political intention without real consequences

⁸⁸ (Comité interministériel de contrôle de l’immigration 2011; Ministère de l’Immigration 2010c)

7.4 Explaining Similarities: Three Common Economic Imaginaries of Labour Migration

This chapter mainly scrutinised commonalities of labour migration management. An interpretive policy analysis of migrant classifications by skill level and scarcity exposed a high degree of shared meaning-making across cases (table 7.7). The selective arrangement and distinction of policies by skill level creates specific roles and scopes for high-skilled, skilled and lower-skilled migrants. For these three groups, very different aspects and notions of the economy and labour market are prioritised and selectively emphasised in legislation and policy discourse. In all three cases, the variable skill levels targeted, underpinning policy drivers, spatial reference points, and *modi operandi* are assembled into three distinct economic imaginaries of labour migration: high-skilled global labour competitiveness, skilled national labour shortages, and lower-skilled EU labour self-sufficiency. It is these shared underpinning normative reference systems, condensable into three economic imaginaries of labour migration, which explain the emergence of similarities in classifying migrant workers by skill level and labour scarcity.

In the first imaginary, policy-makers construe high-skilled labour migration as part of a genuinely global economy and frame foreign labour supply as a tool to remain competitive. To attract high-skilled elites with permeable border regimes and beneficial statuses allegedly brings a bonus to the national business location. This strongly connects to arguments of ‘competition state’ and emphasises Schumpeterian innovation logics, very much as the respective political economists would have us suggest (section 3.1). It is supported by positive metaphorical connotations in an often emblematic policy discourse of ‘bright minds’ and ‘talents’ which stresses the almost mythical qualities of high-skilled workers to boost national economic growth. Borders are demarcated with a concentration on desirable supply of high and exceptional qualifications and the anticipated economic and fiscal contributions of the migrant. In this imaginary, border-drawing lacks references to the national labour market and limited inflows simultaneously seem to prevent public contestation of relatively liberal border regimes. National nuances in the *modi operandi* of high-skilled labour admissions and their interpretations indicate the persisting relevance of capitalist varieties to understand labour reproduction – and by extension a segment of labour migration borders comparatively.

The skilled national labour shortages imaginary, secondly, conceives foreign labour recruitment as a legitimate satisfaction of notional labour demand, but also specifies clear limitations of demand-led admissions. Economic border-drawing for migrant workers is specified by a concrete labour market shortage and the skills profile needed to fill it. In order to prevent domestic labour substitution, legislation strongly embeds migrant employment in the domestic labour market. With some institutional variations, tools like shortage lists and the RLMT are to

ensure that migrant labour is an add-on to domestic labour only. The focus on specific vs. more generic skill shortage recruitment confirms economic border-drawing logics across capitalist varieties to some extent. The shortage space is moreover demarcated in light of political aspirations for the current and future labour market participation of resident workers. Regardless of the empirical feasibility of domestic training claims the aspiration of future self-sufficient labour supply itself shapes entry options for migrant workers at present, as the recent British reduction of the shortage list highlights. The domestic employment and skilling agenda implies trade-offs between domestic and outward-looking economic coordination targets. Moreover, the silence of French policy-makers on training indicates politico-legal border-drawing aims related to post-colonialism acting in the background of what is presented as economically-driven shortage recruitment (to be specified in chapter 8).

Thirdly, the lower-skilled EU labour self-sufficiency imaginary assumes an abundant supply of lower-skilled labour on the domestic and European labour market and does therefore not legitimise recruitment from third countries to fill shortages. Policy-makers construe a responsibility of resident workers to respond to lower-skilled labour shortages and link activation and employment policy targets to this role interpretation. The specific positioning of each country within the European labour geography varies and historical links with former colonies still figure very important in France, for example. Yet, the border-drawing effect for TCN workers remains the same: we observe a strong politico-legal underpinning of migrant classifications by the normative framework of EU free movement which severely curtails lower-skilled entry options. The extent to which this strict border-drawing feeds into empirical realities of residence and labour markets, or whether it sustains informal work and residence, is a question beyond the analytical scope of the thesis. However, the miscellaneous allusion to informal workers and residents, or the domestic unemployed, for example, as potential 'hidden' targets of labour migration policies is of great analytical salience: it sheds light on underpinning social and politico-legal border-drawing mechanisms beyond EU citizenship or domestic employment agendas that cannot be captured within the analysis of economic imaginaries.

As the last remark indicates, several points for specification in chapter 8 and later discussion in chapter 9 emerge from this present chapter's findings. Firstly, of course, the fact that three shared economic imaginaries emerge and share much common ground in terms of economic border-drawing, with some nuances, is worth discussing. Chapter 8 exposes much more nationally distinct border-drawing activities in the social and politico-legal dimension which blur the shared grounds of economic border-drawing. The implications of this division of similarities and differences into specific border-drawing dimensions will be discussed in chapter 9.

Secondly, we have to re-assess the explanatory scope of regime literature in the light of common economic border-drawing and its nuances in individual cases. As to the scope of economic utility logics, we find a limited applicability of competition and innovation state logics in labour migration border-drawing. While competitiveness targets are certainly pronounced in the first imaginary, they collapse in the latter two and indicate highly fragmented economic realities. The focus on social and politico-legal border-drawing in the next chapter will help to illuminate blind spots of the predominantly economic reasoning offered so far and explore confluences and interactions. But what does the common skills division mean for VoC claims? The chapter found differences as to the discursive and legal embedding of the skills divide – ‘enabling’ facilitation and corporatist coordination in Germany and state-led promotion of permits in seemingly ‘dirigiste’ France – which partly confirm VoC assumptions. Especially the British restrictive approach under an annual cap regime, however, has pointed to obvious limits of VoC to make labour migration policy intelligible. In order to explain the oscillation of UK policies between traditional economic openness and control bias, a multidimensional analysis of border-drawing logics and meanings is required, just as chapter 3 suggested.

On a more state-theoretical level of reasoning, thirdly, the division of labour migration policy into differential regulatory field according to three economic imaginaries creates a multi-tiered governance structure. This sustains the claim – and opens venues for further theorisation in chapter 9 – that the state has a powerful role to play in the classification of migrant workers, and that this power can be captured in terms of selective arrangement. Lastly, this structuration has strong effects for migrant workers’ rights, as we find a broad cross-national pattern of correlation between skill levels targeted and rights granted. Implications of this model of ‘economic’ or ‘earned’ membership for countries’ traditional citizenship and integration regimes – already alluded to in chapter 3 – need to be addressed in more detail. The next chapter, dedicated to comparative differences in classifying migrant workers, will expose nationally distinct contextualisations of the shared realm of economically-driven border-drawing.

Table 7.7: Characteristics of Economic Imaginaries in Labour Migration Policies

<i>Imaginaries</i> <i>Focus in admissions</i>	High-skilled global labour competitiveness	Skilled national short-term labour shortages	Lower skilled EU labour self-sufficiency
Skill level focus	High-skilled, very scarce skills, globally mobile skills; post-study work options for graduates	Skilled workers in 'scarce' professions, up-skilling efforts in national workforce	Low and unskilled, and skilled if not in scarce supply; assumed 'vast' domestic and EU supply
Causal focus	Support economic competitiveness and attractiveness of national business location; support innovation and growth; secure fiscal benefits through high earning migrants	Secure short-term economic productivity in shortage situations; boost domestic labour supply longer term to prevent reliance on migrants	Secure domestic/EU labour supply; lower reliance on migrants; activate domestic unemployed; manage and contain informal labour market
Spatial focus	Globally mobile labour pool and globally operating companies; 'world economy' dis-embedded from national labour market	Global supply in case of domestic shortages; sometimes in bilateral recruitment only or EU worker preference; embedded in current and prospective national labour market	Reliance on EU and domestic workers to fill shortages; priority of domestic employment and activation policies; ignorance (or 'malign neglect', see Samers 2010) towards global informal labour supply
Operational focus	Global supply-led recruitment in competition for 'brightest minds', global 'war for talent' (Cerna 2009); highly beneficial admission and residence regimes	Selective demand-led recruitment as 'add-on' to domestic shortages; fine-tuned identification of shortage and containment of worker in that shortage job; state-led labour market command and control in promotion of domestic up-skilling	Exclusivity of EU and domestic supply to fill shortages; activation and 'matching' by state; strictly controlled bilateral agreements with third countries in exceptional cases; fight against informal work and residence
Metaphorical underpinning of imaginary	Discourse of 'talents' and 'high potentials' signifies innovation capacity; 'gold dust' signifies scarce skills and magical quality of some migrants to boost innovation and growth; 'greasing the engine'; rolling out 'red carpet' with beneficial treatment	Discourse of 'economic need', 'demand', 'specific shortage' and 'add-on' signifies demand-led focus; concrete space for migrants as 'cogs in the engine' with specific and contained role; discourse on 'reliance' signifies future self-sufficiency aspirations	Use of attributes like 'amply' and 'enough' signifies abundance of domestic/EU labour supply; reference to 'duty' and 'obligation' of domestic unemployed to 'pull socks up' ascribes responsive role to them with regard to achieving labour self-sufficiency

Source: author's analysis of semi-structured interviews with policy-makers in further elaboration of table 6.7

8 Socio-Political Contextualisations: National Interaction Dynamics

“Concerning TCNs we don’t experience [...] any concrete pressure at our external borders. [...] We have no colonies that are still on our back historically; I’d say that we are relatively unencumbered in that respect.” (GER5-GOV)

“[*The French government*] does not speak to those who will come; it speaks to those who have been here for two generations. So the legal texts won’t apply to them, but it nonetheless speaks to them. [...] And immediately we talk about the banlieues, we talk about terrorism, [...] because all gets mixed up.” (FRA3-UNI)

“The incoming [*Conservative-Liberal Democrac*] government thought it needed to be tough on migration, and so they tried to find anywhere that they could show they were offering tighter regulation.” (UK8-GOV)

Classification by skill level and labour scarcity is only part of the empirical picture emerging from policy mapping (chapter 6). The shared cultural political economy of labour migration cannot account for variegated selection by origin, the preference of domestically acquired skills, classifications by anticipated welfare or social cohesion effects of migration, references to public opinion, or the operation of annual caps. The statements above commence to indicate country-specific nuances of social and political sense-making with respect to post-colonial relations, experiences of migration ‘pressure’, or electoral control promises, for example.

This chapter inspects these nationally distinct classifications in detail. Just as chapter 7, the present chapter draws out main logics of labour migration border-drawing according to policy-makers’ accounts. It substantiates how classification principles other than skill level and labour scarcity, so far not accounted for, are being made sense of in each country (R2) and how they relate to idealtypical border-drawing logics (R3). I identify and analyse key reference themes policy-makers employ to contextualise economic border-drawing and find country-specific interaction dynamics between economic imaginaries and the variable socio-political terrains. Variable references to social inclusion mechanisms, post-colonial labour ties, informal work, ethnic hierarchies, citizenship models, and public opinion feature across cases. They explain comparative differences in labour migration management and trigger country-specific interaction dynamics between socio-political contexts and the shared economic imaginaries. An overview table in section 8.4 summarises comparative findings of the chapter (table 8.10).

The structure of the empirical field requires this chapter to organise main sections by case. The implicit shifting attention away from commonalities regarding the economic border-drawing dimension towards pronounced national differences in social and politico-legal classifications in labour admission policies forms the thesis’ core argument: the country-specific socio-political contextualisation of shared economic imaginaries of labour migration explains similarities and differences in labour migration management in Germany, France, and the UK.

8.1 Germany: Bismarckian 'Earned' Integration and Promoting the European Project

German policy-makers widely support a technocratic demographically underpinned argument for recruitment. Both case profiling and the economic border-drawing analysis indicate that this might be more than a political rhetoric in the German demographic context of workforce shrinking and population ageing. However, the mapping of German legislation equally pointed to a layering of this seemingly functionalist economic agenda with further policy objectives. This particularly concerns the pronounced preference of domestically acquired skills, bilateral recruitment from prospective EU member states, but also the beneficial treatment of nationals from certain rich countries. Surely, if solely concerned about the recruitment of demographically required skills, workers' origin or the origin of their qualifications should not matter.

The main logics that shape labour migration policy in Germany in addition to economic imaginaries (chapter 7) are: 1) a Bismarckian logic of integration as 'earned' via labour market participation, 2) the dedication to a 'European project' with strong geopolitical underpinnings, and 3) an ethno-cultural stratification of 'acceptable' migrants. The following analysis exposes how some of the notionally merely economic border-drawing mechanisms are contextualised within socio-political rationalities and explains this moderation in light of the specific characteristics of the German labour geography (chapter 5).

8.1.1 Anticipated and Ex-post Integration in the Bismarckian Welfare State

Interviewees raise explicit links between labour migrant classification and the German 'way of doing welfare' (Sainsbury 2006). Arguments fall into two categories: 1) anticipated prospects of socio-economic integration of newcomers, and 2) ex-post 'earned' integration of current residents, including those in informal positions. Interview data and legislation indicate that the Bismarckian welfare state underpins policies in both categories with its contribution-rights-equivalence logic (chapter 3). This contextualises economic border-drawing mechanisms described in chapter 7 in a strong socio-political imaginary of *social integration via work*. I will address the implications of what operates as a 'Bismarckian linchpin' in labour migration policy for the German citizenship model, hence informing a broader theoretical discussion in chapter 9.

The status-maintaining welfare state is seen as 'trump card' (GER3-GOV) to attract high-skilled labour in relation to the first economic imaginary (chapter 7.1). But interviewees also recognize the welfare system as relevant reference point for assessing the economic and social inclusion capacities of a migrant worker *before* admission. Equally, the imperative of a binding job offer, for instance, is not just an economic rationale of demand-led shortage recruitment; German

interviewees frequently link it to social integration policies more generally (Box 8.1). Successful labour market integration – a job offer working as guarantor – serves as proxy for anticipated successful societal integration. This assumption directly draws on the normative principles of the Bismarckian welfare state with its stereotypical proportional link between work and welfare. The logic of anticipated integration also applies to highly-skilled target groups of the permanent residence permit. For interviewees high skill levels will let workers almost automatically gel into the labour market, while status maintenance in welfare provision will prompt high levels of social inclusion for well-paid professionals⁸⁹. The particular concept of mutually reinforcing socio-economic integration forms a dominant interpretive subtext of German labour admission policy.

Box 8.1: Functional Links between Labour Market Participation and Social Inclusion

S1: [talking about job offer requirement as selection mechanism] “I mean, work is the utmost and first priority and essential also with regard to integration capacities.” (GER5-GOV)

S2: “[...] work is indeed one of the most crucial paths to integration. This is why it is always underpinning the kind of labour migration management.” (GER7-BUS)

S3: “The philosophy of Minister X [*former Labour and Social Affairs Minister*] was that those who have been here many years should be able to stay and not be restricted in their labour market access. [...] Because if they stay, it makes sense in terms of humanitarian and labour market policy concerns to say: if they are willing to integrate in the labour market, they should have an option to do so, and who succeeds to maintain their own living should have a residence rights perspective. Especially as we will need workers.” (GER3-GOV)

The functional link between work and social/residence rights also works as ‘earned integration’, thus accounting for the comparative weight of domestically acquired skills in German regulation. In recognition of their already demonstrated professional and educational integration, *Bildungsinländer*⁹⁰ can skip RLMT or shortage assessment: “Achieving a German educational degree means a demonstration of your integration capacities” (GER10-GOV). Selection by origin of qualifications does not just shield the German VET system against foreign competition; it is part of a socio-political integration framework in which domestic skills acquisition opens a viable pathway of socio-economic inclusion. I discuss interactions of educational attainment and labour market participation as domains of inclusion in Germany elsewhere (Kaiser and Paul 2011).

⁸⁹ A similar ‘automatic integration’ argument is brought forward with respect to high-skilled migrants’ exemption from language proficiency requirements, but some policy-makers castigate this vision as unrealistic (GER4-ADV).

⁹⁰ TCN with domestic qualifications

Retrospective acknowledgement of integration via education and employment strongly structures the German governance of *Geduldete*⁹¹. Despite the restrictive handling of asylum-seekers (chapter 5.1), policy-makers overwhelmingly request a secure settlement perspective for those who have acquired a German qualification or worked and contributed to social insurance consecutively for two years. The wide-spread perception implies that those already integrated in the labour market and successfully gaining their living should benefit in terms of residence rights. Statement 3 (box 8.1) highlights the intermeshing of humanitarian, control, social and economic integration rationales. Otherwise a quite excluded group of residents, *Geduldete* are drawn into the logic of the national skilled shortages imaginary and can thereby improve their legal status. Lower skilled asylum seekers in more precarious or informal jobs lose out in this de facto regularisation provision.

In the German context work is seen as prime pathway to obtaining – and ‘deserving’ – other sets of rights; the Bismarckian welfare state hence figuring as a linchpin in socio-economic coordination. This bears at least three implications for border-drawing. Firstly, ex-post labour admissions of residents adversely affect new TCN admissions: *Geduldete* and new applicants might compete for the same shortage jobs and in such cases preference is given to residents, even if they are ‘just’ *geduldet*. Their domestic skills acquisition incorporates otherwise excluded foreign residents into the domestic labour pool, thereby limiting entry options below the high skills hurdle for other TCN workers. Detention and migration control policies are traded off with labour migration and integration policies; the skilled national labour shortage perception trumps other concerns and paves selective social inclusion and residence pathways.

Secondly, the structuration of admission and settlement perspectives for migrants according to their anticipated or current social insurance contributions sharply departs from the guest-worker mentality that governed policies until recently (chapter 5). All interviewees refer to this heritage and depict ‘lessons learned’: policies anticipate pathways of inclusion and settlement by selecting candidates who seem likely, or have proven, to succeed as longer-term employees, welfare contributors, and social citizens. In comparison, indeed, Germany offers relatively favourable social rights and secure statuses to labour market insiders, including migrant workers and ‘semi-legal’ residents. This indicates the structural relevance of the Bismarckian welfare model of differential inclusion and exclusion of migrant workers also in labour admission policies. (see Morris 2002; Sainsbury 2006).

⁹¹ At the time of interviewing, a revision of labour market access provisions for this group was ongoing, so it does not come as a surprise that all interviewees referred to it without the interviewer particularly inquiring the issue.

Lastly, hand in hand with the above-said goes a re-definition of German citizenship towards a model of 'earned' integration more generally. This layers, and thereby changes, the traditional integration and citizenship model. On the one hand, anticipated integration through work and social insurance contribution is pivotal for first entry and admission. On the other hand, several interviewees highlight that work has also become the most dominant domain of societal inclusion for ethnic Germans (cf Kaiser and Paul 2011). Eventually, the policy legacy of ethnic selectivity is contextualised in a socio-economic border-drawing logic by skill level, labour scarcity, anticipated welfare contribution and socio-economic integration outlook.

8.1.2 Furthering the European project: Continuous *Raison-d'état*?

EU free movement and the imagination of a geographically extendable European labour pool is a strong reference point in German labour migration regulation and discourse. It structures the economic imaginary of lower-skilled EU labour self-sufficiency (chapter 7), but interview data also suggests that migrant workers' classification by European origin is normatively attached to a policy imperative of increasing Germany's rootedness in a distinctly *European* labour geography and EU citizenship model. With trade interests further underpinning this imperative, the historical Europeanness of the German labour geography (chapter 5) is translated into a contemporary economically utilitarian geopolitical *raison-d'état*.

Despite transitional drawbacks on free movement for A8-nationals, selectivity by European descent continues to be crucial in German labour migration. Policy-makers argue that bilateral recruitment agreements played a historical role in piloting subsequent free movement with accession candidates in a controlled manner, thus cautiously deepening Germany's rootedness in a changing European labour market (GER5-GOV). Policy-makers explain the exclusive recruitment of Croatian care workers in this context. There is a genuine acceptance among German interviewees that EU free movement is, and will be, the 'default condition' of the labour market, hence structuring future labour recruitment and employment policies (box 8.2).

Discourse around these issues takes the shape of a *raison-d'état*: 'our' obligation to become true *Europeans* is emphasised while extra-European recruitment seems absurd to most interviewees. The ideational emphasis on furthering the European project with respect to labour migration represents a historical continuity and highlights the absence of significant non-European labour ties in the German labour geography (chapter 5). Impulses of labour market protection within the EU are criticised, and interviewees highlight the necessity to advance a genuine European labour market identity against electoral backlashes. While the EU-promotional rhetoric seems slightly hypocritical in light of the very hesitant phasing-in of free movement, it is

perceived as having avoided perceptions of 'pressure' on public services which underpin the British closure reaction (section 8.3).

Box 8.2: Ideational Scope and Limits of the European Labour Geography

S1: Well, forget about bilateral agreements! They had grown historically. [...] Recruitment agreements will then [*once free movement is established*] no longer be interesting in terms of the legal provisions for foreign workers, but as an issue of EU-wide job placement. [...] This is eventually no longer a matter of migration, but a regular placement issue. [...] [*A future focus is*] that we don't just have free movement but actually practice it. Well, the Brits offered a nice example, wanting to send the Portuguese back home and stuff. Now, quite a big mentality change still lies ahead of us in order to become Europeans. This is why migration from third countries is just not topical for me." (GER5-GOV)

S2: "There is also a logic emerging from the normative power of the factual, which goes equally unmentioned. We definitely admit Poles if they do care-work night and day. Yet, at the same time we are winging about the many Poles who come. But we want them." (GER4-ADV)

In addition to anticipated EU accession and free movement, some bilateral agreements reciprocally provide easier entry routes for other TCNs. For example, Turkish nationals, both newcomers and established residents, can take a job prior to any other TCN after a RLMT (Bundesrepublik Deutschland 1980: art. 8). They can also obtain a leave to remain more straightforwardly. This departure from a strict EU-territorial definition of labour pool is partly founded in external trade relationships (GER2-GOV). Trade agreements – the Turkish one dating back more than 30 years now – remind us of the historical emergence of a wider European economic area. Economic openness towards EU neighbouring countries is moreover seen as a vital security target, particularly à propos Turkey's integration in NATO as a buffer-zone to the Middle East (GER4-ADV). The Turkish example illustrates that bilateral foreign and trade policies beyond the EU continue to co-shape TCN labour selectivity by origin.

What does this promotion of an extended European labour geography mean for German labour migration border-drawing? In the absence of post-colonial ties and a decreasing relevance of ethnic repatriation, the German instinctive response to potential shortages in the past (chapter 5) and future seems to involve turning to its geographical backyard. We might not find relevant border-drawing patterns by German or post-colonial descent. Yet, the positive discrimination of EU- and other European workers represents an expanded selection by origin linked to geopolitical interests. Overall, the notion of a 'European project' and its economic, trade-related and foreign policy features explains the specifically German classification of migrant workers by origin, equally exposing an influential self-perception of Germany's geopolitical role in Europe.

8.1.3 Cohesion Concerns: Ethno-cultural Hierarchies of Migrant Workers

The statement concerning Polish care workers in box 8.2 indicates that definitions of economically useful and socio-politically ‘acceptable’ flows might not coincide, not even in the otherwise cherished European project. Beyond addressing economic hierarchies by skill level, some interviewees imply ethno-cultural hierarchies as well (Box 8.3). They justify why nationals of some rich countries⁹² are treated more favourably than other TCN (chapter 6). Facilitated access builds on their anticipated higher integration capacities and willingness to return to their countries of origin. Interviewees introduce a reasoning of cultural otherness, contrasting ‘unobtrusive’ Japanese with other communities whose customs, values and beliefs cause more concern. While being careful not to demonise an entire ethno-religious group, the policy-maker cited in statement 2 below depicts Turkish and Arab communities as sources of trouble and relates alleged ‘problems’ to their low educational attainment, but also cultural and religious practices.

Box 8.3: Hierarchies of Socially and Culturally Acceptable Migrant Workers

S1: *[asked why privileged labour market access is given to some OECD nationals]* “Well, the reason for this simply is that we did not have any problems with these nationals in terms of residence provisions in the past 30, 40 years. We don’t have any return issues with New Zealand, Australia, or especially the US. That is quite different for many [other] countries. [...] Under the heading of residence provisions we simply don’t experience any problems with Japan. Hence we can be quite generous.” (GER10-GOV)

S2: The Japanese come for economic reasons. They are also valuable for our country in terms of German-Japanese trade relations. [...] We don’t have any integration problems with them. Indeed, they stay Japanese, but are unobtrusive. I would not know of any problems we ever had with Japanese people, that they cause riots, destroy windows, or walk around in headgears that we have a problem with, or build flamboyant Shinto temples. The Japanese are no problem. But their numbers are quite limited as well. [...] (GER9-GOV)

This discussion mirrors Germany’s ongoing struggle to integrate a large, predominantly Turkish, second and third generation of settled ‘guest-workers’ (chapter 5). Japanese residents seem more acceptable precisely because they are fewer in numbers, especially compared to Turks who form the major migrant group in Germany. This addresses social cohesion and public hostility issues, with the German ‘majority population’ allegedly being fearful of feeling ‘outweighed’ by a growing (Muslim) migrant population (GER10-GOV). These concerns hence target the settled and often German-born resident population. In this respect, it is worth highlighting that the only interviewees mentioning ethno-cultural stratification as issues in labour

⁹² Andorra, Australia, Israel, Japan, Canada, Monaco, New Zealand, San Marino and the United States (chapter 6)

migration were Home Office officials. The Home Office's agenda is by default populated with security and cohesion issues, whereas Labour Ministry officials, employers and trade unions were concentrating on economic and free movement aspects of migration⁹³.

Lastly, notions of economic utility and social acceptance interact in both directions, as the emphasis of trade relations with Japan by one expert shows. Bridging the gap to the economic imaginary of high-skilled global competitiveness, a migrant's origin interacts with their anticipated integration potential and social acceptability. Put bluntly, descendants from equally rich and developed economies (e.g. Japan, the US) are more likely to fit into a global labour and knowledge exchange model than migrants from Sub-Saharan Africa. The focus on competitiveness in high-skilled admissions thus reinforces the division into a rich global north and a poorer south with regard to legal scopes for migration (chapter 9.2). The situation of German recruitment within a European labour geography and the country's lack of colonial heritage create a comparatively weak incident to 'deal with' perceived obligations towards extra-EU sending countries (GER5-GOV) or 'poverty migration from Africa' (GER10-GOV). By this very absence, ethnic hierarchies continue to be a default condition in the German labour geography and enable an open, 'unencumbered' and largely uncontested focus on economic utility in labour migration policy which is in considerable contrast to the other two cases.

8.2 France: Managing Post-colonial Relations and Containing Informal Workers

French labour migration mapping found that post-colonial relationships structure entry routes, especially with bilateral migration management agreements and special provisions for Algerian nationals. Unlike in Germany, country of origin selectivity does not just interact with skilled and lower-skilled routes, quotas for particular sending countries apply to high-skilled entries as well (chapter 6). Interview data strongly contextualise this realm of border-drawing in France's distinctively post-colonial labour geography. While dressing as *economic* selectivity – and certainly being exactly that in some cases – labour recruitment in France seems to be *socio-politically motivated* in several ways.

We find overwhelming evidence for a French attempt to manage post-colonial labour ties and to renegotiate its inclusive integration and citizenship model. This argument is developed with

⁹³ This thesis' concentration on legal classifications as compromises and preliminary end products of a political ordering process impairs the view on continuous contestations. Interview data indicates empirical fragmentations of 'the state' and suggests that with changing power relations between government departments policy priorities and interpretations can also change. These dynamics are outside the scope of this analysis.

regard to three rationalities of socio-political classifications surfacing in interviews: 1) '*immigration choisie*' signals disinclination to a mostly post-colonial resident population to symbolically revoke their citizenship rights. 2) EU free movement, differential shortage lists and ex-post regularisation procedures contain the – often post-colonial – informal labour market. 3) The electoral politics of labour migration – rather than a labour migration policy per se – dominate the discourse, as symbolic policies targeted at residents, prospective citizens and/or informal workers are perceived as path dependent regarding a long-cherished 'zero migration' rhetoric towards voters.

8.2.1 '*Immigration Choisie*' as Post-colonial Population Management

Post-colonial relationships are omnipresent in both French interviews and regulations. French bilateral agreements display quite different functions and rhetorical underpinnings than those used in Germany. The latter have been interpreted as cautious – and indeed now mainly past – political and economic furthering of a European project including an integrating labour geography. By contrast, interviewees construe the French *accords de gestion* as policy tools in an ongoing control the resident population (including those with informal status) and restructure post-colonial links. They raise two main rationales: 1) using labour admissions in expulsion and co-development policies targeted at former colonies, and 2) '*immigration choisie*' as renegotiation of the French citizenship and integration model and detachment from post-colonial ties. Statements in box 8.4 are representative of the discursive layers within this debate, and mirror the strong political contestation of post-colonial relationships, in stark contrast to the UK (section 8.3). The first statement offers a wider contextualisation of migration policies within French colonial history and current foreign policy, indicating continuous struggles about the legitimate role of post-colonial descendants in the labour market, welfare state, and society, and highlighting implications for labour migration border-drawing.

The government officially promotes *accords de gestion* as co-development tools to enable close economic and political cooperation with sending countries that are developing countries, many of which former French colonies (Le Président de la République and Le Premier Ministre 2009). But French development aid to these countries is contingent on their commitment to facilitate repatriation of co-nationals, and to strictly control their borders to avoid informal entries to France. This control rationale is explicit in one official's remark on the necessity to reach a conclusion with Mali as one of the biggest sources of 'irregular' migration (box 8.4, statement 2). Admission policies and control aims as to current and prospective informal residents from former colonies are thus being conflated in '*immigration choisie*'. Critiques argue that bilateral agreements thus represent a continuation of French colonial domination with other

means (FRA3-UNI), a claim that has recently been supported in a wider European context (Hansen and Jonsson 2011).

Box 8.4: Post-colonial Migration Management through Labour Selectivity

S1: "France [...] sees itself as an ex-empire, which possessed grandeur and has lost its grandeur. [...] And it happens that migrants are, to a considerable part, nationals from our old colonies. Eventually, there is this connotation of a somewhat ambiguous figure of a migrant who is, at the same time, the one we colonised and who tried to resist, who wanted his independence, and the one who now comes here and steals our work, steals our women, steals our bread, steals our social security system, steals everything." (FRA4-ADV)

S2: "Well, the only country that we would love to come to an agreement with is Mali, as this is the country that generates most illegal flows in France. It is the only country so far with which we have not been able to compromise." (FRA1-GOV)

S3: "The government says: we have to limit family migration which [...] grants labour market access, but is not 'chosen' migration in terms of our labour market needs. That means that we might have people here who are not qualified, [...] at least their qualifications are not selected according to employers' needs." (FRA7-BUS)

S4: [on *'immigration professionnelle'*] "When stating 'but we need these people and all', what is also implied is that those who we do not need, they can go back home. And the main target, or increasingly so, [...] are citizens. [...] We talk of 'citizens' because these are people on the pathway to becoming French!" (FRA3-UNI)

With regard to bilateral migration management agreements, several policy-makers further argue that labour admission policies are no genuine recruitment tools responding to perceived economic demands but rather target the post-colonial resident population (statements 3 and 4). In this understanding, the discourse of selectivity signals to residents that they have not been 'chosen' according to economic needs, and that they are hence not desired. As the policy contextualisation showed, this mainly addresses those who have acquired residence rights via family reunion, including French nationals or those on pathway to naturalisation (chapter 5). Several interviewees see family reunion rights and traditionally inclusive settlement and citizenship paths being symbolically revoked with the promotion of economic selectivity by skill level and scarcity. The statement at the beginning of the chapter indicates that post-colonial population management is being further conflated with public order and social cohesion issues (i.e. banlieue riots in 2005), terrorism and international conflicts. The intermeshing of economic selectivity and post-colonial migration management imposes ethno-cultural hierarchies of acceptability; and as such represents a continuation of ethnic selection 'à la carte' during guest-worker recruitment (Spire 2005; chapter 5).

The dialectics of post-colonial population management and ‘chosen’ labour inflows is further supported by a notion of good integration prospects for high-skilled workers, not dissimilar to the German debate. For ‘ordinary’ migrant workers and family members anticipated assimilation capacity is an important entry requirement and integration progress is subsequently monitored. Deviating from this default integration requirement, policy-makers believe that high-skilled individuals “will integrate without difficulties in our country” even where they do not speak French initially (FRA1-GOV). With respect to the assimilation model, high-skilled recruitment programmes assume that elevated professional qualifications equal not only economic utility but also high assimilation potential. ‘Professional migrants’ are welcome economically *and* as well-integratable society members, whereas the economic and societal integration potential of other migrant residents, including French citizens of post-colonial descent, is questioned. Policy-makers in charge of drafting laws might strongly reject the ‘selective mechanisms’ of a points-based system as a serious violation of Republican equality and non-discrimination principles (FRA1-GOV). Yet, the simultaneous strong prevalence of classifying workers by their origin reflects France’s difficulty “to be in harmony with its Republican logic” (FRA3-UNI) and indicates an overriding of inclusive civic citizenship more generally.

8.2.2 EU Workers, Shortage Lists and Regularisations Containing Informal Labour

A second context of French socio-political border-drawing concerns the implicit governance of the informal resident working population, again overwhelmingly of post-colonial origin, through shortage labour admissions. The empirical relevance and continuing political contestation of informal migrant work in France outlined in chapter 5 is sustained by interview data, highlighting its significance as structuring backdrop of labour migration policies. The operation of two different shortage lists for EU workers and TCNs imposes a hierarchy of regions of origin and is highly interwoven with selection by skill level (chapter 6). The former list admits individuals into more than 150 professions of all skill levels, also lower ones, but the latter is limited to around 30 exclusively higher skilled jobs. Policy-makers rhetorically draw on the different economic imaginaries to put informal migrant labour in its (marginalised) place. Chapter 7 interpreted this differential treatment as part of the distinction between skilled labour shortage recruitment in imaginary 2 and the vision of lower-skilled EU labour self-sufficiency in imaginary 3. Moreover, some policy-makers draw on the norms of ‘droit social’ (French social and labour rights code) to discern a limited scope for legitimate regularisation claims. But how is the uneven shortage definition made sense of in socio-political terms?

On the one hand we observe an affirmative rhetoric around phasing-in free movement for new member state nationals in the context of shortage lists. One administrator refers to the cautious anticipation of full free movement, just as in German discourse. Despite the transitional restrictions imposed there seems to be large acceptance of EU-internal migration; initial scepticism about labour substitutive effects seems to vanish: “We no longer roll on the ground when thinking of the Polish plumber.” (FRA6-GOV). Instead the perception of EU migrants as part of ‘us’ seemingly triumphs as their gradual integration is considered ‘logique’ and free movement represents an increasingly uncontested part of European market-making (FRA5-GOV). As in Germany, the lower-skilled EU labour self-sufficiency imaginary is hence underpinned by a political imperative of actively forging a European market, labour geography, and identity.

On the other hand, the *de jure* preference of EU-workers in the lower-skilled labour market segments – *de facto* often filled by informal TCN workers – contains and further illegalises the informal working population (chapter 5). More precisely, the regulatory focus on higher skilled shortage professions on the TCN list has been criticised as an ‘administrative joke’ and ‘partly imaginary’ (FRA4-ADV): “As if in the high circles of power they did not know what everybody knows, that numerous *sans-papiers* in France are employed on the most ingrate construction sites, as dishwashers in restaurant kitchens, or to clean car parks in the night” (Carrère 2008). Critical readings therefore suggest that official labour shortage recruitment with its emphasis on EU free movers forces lower-skilled TCN workers in France further into precarious informal work and residence situations, and eventually sustains cheap labour availabilities (Morice 1996; Morice and Potot 2010; Terray 1999). The *de jure* use of the lower-skilled EU labour self-sufficiency imaginary and containment of TCN workers in the skilled shortage and high-skilled global competitiveness realms contradicts labour market realities and has the potential of further illegalising parts of the resident and working population. In comparative perspective, the origin of informal workers matters: while the ‘problem’ of informality allegedly partly solves itself with the introduction of full free movement in Germany in May 2011, the same cannot be said of France where informal labour is commonly of post-colonial descent.

As chapter 6 indicated, shortage lists do not just structure entry routes for newcomers, therewith illegalising other flows, they also provide options for informal workers already residing in France to regularise their labour. In this context, informal labour market control interacts with the skilled national labour shortage imaginary with the potential to release ‘illegal’ skilled workers from the insecure and precarious space in which they are otherwise confined. However, regularisation decisions take place on a local government level, on case-by-case basis, and with high levels of discretionary scope: “It is the administration who is the boss!” (FRA4-ADV). This rather intransparent case-by-case admission puts the logic of *economic* shortage assessment

into question and renders ex-post shortage recruitment of informal workers an arbitrary and strongly politically filtered border-drawing mechanism. It represents another layer in an asymmetric post-colonial ‘partnership’: while sending countries generally agree to enable repatriation, France’s discretionary room of manoeuvre allows for the selection and legalisation of *sans-papiers* that can fill skilled labour shortages (cf Hansen and Jonsson 2011).

Box 8.5: ‘Earned’ Integration and ‘Droit Social’ Norms in Regularisation Policies

S1: “Well, we recognise that there should be a regularisation of a certain number of irregular workers who have been in France for a certain time, generally 5 years, under the condition that they have a preceding work contract, that they will have a new contract for the future, and under the condition that their employer has respected social rights [*le droit social*]. [...] We tend not to forget if someone has breached social rights norms. [...] Our principle is that we can adapt to realities, and the reality is that the labour force is partly a foreign labour force, even in irregular situation, but [...] we do not accept social dumping.” (FRA6-GOV)

There is a last important twist in the treatment of informal labour which is quite specific to the French interpretive context. Policy-makers are not blind to labour market realities, as the statement in box 8.5 indicates, and even approve of smaller scale regularisations. As in Germany, but very much in contrast to the UK where no interviewee mentions the issue, a notion of ‘earned’ integration surfaces in the French governance of informal workers: policy-makers assume that someone who integrated into the labour market might deserve a secure residence status. This might connect to the logic of ‘earned’ entitlements in a Bismarckian welfare state, but seemingly less so than in Germany where policy-makers addressed these links much more frequently and explicitly. Of course, distinction by skill level strongly shapes the regularisation options, as higher skilled workers always have the option of applying for skilled shortage jobs, for instance. In practice, however, informal employment is often low-skilled and low-paid so that the legalisation options of post-colonial migrant workers remain meagre.

The French focus on securing labour standards (e.g. wages and working hours) even where the employee is an informal resident draws on a distinctively French normative script of ‘droit social’. Unlike the UK, but similarly to Germany, France legally distinguishes between informal migrant residence and informal migrant employment. In a comparatively strong political tradition of protecting workers’ rights and preventing ‘social dumping’, French migration control has tended to be tougher on informal sub-standard employment than on informal residence and the Bismarckian welfare state had inclusive effects for those paying social insurance in work.

In practice, this distinction might, however, not help migrant workers: the official denouncement of low-skilled TCN labour as superfluous (EU self-sufficiency) might trigger a further allocation of *sans-papiers* residents into informal employment situations and hence render them ineligible for future regularisations. The often unrealistic condition of ex-post labour admissions to be in line with ‘droit social’ is hence likely to trigger uneven effects for migrant workers of different skill levels, disproportionally affecting those at the low-skilled and low-paid end of the labour market. While regularisation and ex-post shortage recruitment might seem to offer an escape from informal situations at first glance, they display a potential to further contain the informal TCN working population in the constructed spaces of illegality.

8.2.3 Symbolic Control Politics and Historical Lock-in in ‘Zero Immigration’

A last contextualisation of current labour migration policies regards the rhetorical path-dependency on ‘zero immigration’ as policy legacy. Some argue that the more encompassing liberalisation of admissions since 2006 has been “hard to communicate” in France (FRA5-GOV) as policy-makers perceive a historical lock-in in a rhetoric of closure and control since the 1970s which rendered both active recruitment and regularisation practices politically incredible (box 8.6). Government officials confirm that the creation of a ‘public immigration policy’ and the policy rhetoric of ‘management’ were partly fuelled by the intent of claiming back terrain from the Front National (FRA1-GOV) (chapter 5). This confirms the relevance of electoral politics in relation to citizenship and migration policies, pinpointing limits of economic border-drawing.

Box 8.6: Symbolic Policy and Historical Lock-in in Zero Migration Rhetoric

S1: [talking about informal workers and links to ‘immigration choisie’ approach] “In this context, we enter sectors that are not at all ‘high potential’. We enter the cleaning sector, we enter difficult professions filled by the migration population. It has always been like that; since the first [migration] waves in the 1960s it was about filling positions that no-one wanted to take, in kitchens, in cleaning, in jobs that are rarely full time. [...] Eventually, the policy of attractiveness in terms of professional migration is nonetheless challenged by the regularisation policies for *sans-papiers*.” (FRA2-GOV)

S2: “Part of the discourse is about demonstrating to the French: ‘we manage, we won’t have a big regularisation, [...] we will attract the qualified workforce we need’. Because if you explain to the French that the workforce you need and [...] that you will legalise, are kitchen-assistants, masons and construction workers [...], the French will say to themselves: ‘well, [...] you have told me for decades that migration is dangerous, that migrants steal our jobs; and at the same time these people already work in these sectors for years, they keep these sectors going [...] and that we need to regularise them; what is this mess?’ (FRA4-ADV)

If even high-skilled professional entries were hard to communicate, certainly the trade-off between economic utilitarianism and electoral politics is aggravated for lower-skilled flows and regularisations. Some interviewees explain the notional misrecognition of informal labour market realities in shortage recruitment practices as a lock-in in recruitment stop rhetoric. Regardless of more liberal implementation practices *de facto*, the official message to the French population over decades has been: we don't need foreign workers, especially not in lower-skilled segments (statement 1). While employers and policy-makers might recognise that domestic unemployment and labour shortages in lower-skilled jobs continue to co-exist (FRA7-BUS), this reality is being disguised in admission policies. Against the backdrop of an incessantly relevant informal labour market, the economic foundations of the high-skilled and skilled admission policies, for some interviewees, are questionable (statement 2).

Overall then, the socio-political signalling and classification effects of the *politics* – rather than policy – of '*immigration choisie*' towards post-colonial residents, informal workers and the French electorate severely curb the economic logics of labour migration border-drawing. Instead of genuinely signalling openness to certain work flows for economic reasons, the classification arrangement signals non-openness to other flows. The lack of a demographic 'pressure' scenario comparable to Germany further substantiates the claim that demand of specific workers serves as window-dressing for other policy objectives in France.

8.3 The UK: Desired and Adverse Effects of EU Free Movement and Symbolic Control

Unlike the other two cases, the UK does not select TCN workers by country of origin with bilateral agreements. However, the design of the PBS implies important structuration effects by origin as the suspension of Tier 3 closes all labour routes for lower-skilled TCN, while only EU free movers can enter (chapter 6). While this reflects the common trend to incorporate the EU labour pool into self-sufficiency calculations (chapter 7), New Labour's embracement of virtually unlimited EU free movement in 2004 has shaped admission policies for TCN workers much stronger than elsewhere. This section will show that 1) EU free movement has fuelled a relatively silent detachment from a post-colonial labour geography; but 2) has also triggered a restrictive response to further TCN labour admissions due to perceived adverse effects of EU-inflows and in lack of control levers for the latter. 3) Numerical limits are largely responding to a seemingly hostile public opinion, trying to create a perception of control and 'delivering' on a salient topic in the 2010 General Elections. Eventually, economic border-drawing in Britain strongly intersects with the perceived 'pressure' on social services caused by substantial EU-inflows, and respective electoral 'responses' to public opinion.

8.3.1 *Desired EU Free Movement Effects: Substituting Post-colonial Labour Inflows*

In sharp contrast to the French case, British labour selectivity is not expressed as post-colonial population control. The role of post-colonial obligations is rather absent from British legislation as well as interviewees' narratives. Yet, the preference of the EU labour pool over a traditionally used Commonwealth workforce implies by-origin classification effects. Some observers interpret this as deliberate attempt to recompose the workforce by detaching the UK from its post-colonial labour geography. Micro-level studies of work places in the UK have confirmed that free movement in the EU challenges the traditional pattern of imperial recruitment especially with regard to lower-skilled jobs (McDowell, Batnitzky et al. 2008), and one interviewee (box 8.7) confirms these dynamics. Long-settled minorities, as the quoted Jamaican cricket supporter, feel that their belonging is questioned by the economic-utilitarian reasoning behind EU free movement and emphasise the notional disregard of cultural bonds in the Commonwealth. Labour politicians in parliament have likewise challenged the cultural belonging of EU free movers while emphasising the UK's strong historical connections and obligations to Commonwealth nationals (House of Commons 2011).

Box 8.7: Governing Post-colonial Relationships through EU Free Movement

S1: "I had a wonderful discussion a few years ago with a black workers group in one of our big unions, and he was talking about A8-migration, and they said what does this mean for the Commonwealth. [...] And this old Jamaican bloke says, about the Poles, he said 'they don't share lots of aspects of our culture', and he got really worked up, and he said 'they don't even play cricket!' (*laughs*) 'What are we doing bringing people into the country who don't even play cricket?!'" (UK2-UNI)

S2: "Most of the people in our Empire were brown and black! And it was always when we were ruling them, Britain was always referred to as the mother country, and then after de-colonisation, when they tried to come to mother, mother didn't want them, or very sparingly, on our terms. And again, there is that element within the last government's policy of relying on A8-workers rather than bringing in more people from overseas, when most of those people from overseas are going to be brown and black, basically. So there are all sorts of unspoken levels of [...] racism, basically." (UK2-UNI)

This indicates fragmentations in the British labour geography which recall the French management of post-colonial ties by explicit preference of European inflows in shortage recruitment. Unlike in France, however, the reference to a common post-colonial heritage has no direct stake in British labour migration legislation. Rather, it is the very absence of agreements with former colonies that demonstrates the importance of current labour migration policy in

Britain's post-colonial detachment. Apart from the one cited interviewees do not address the structuration effects of EU free movement on post-colonial flows at all.

The general lack of political discussion about the normative principles of British post-colonial citizenship – very much in contrast to the highly politicised French one – confirms Favell's (2001: 99) description of British integration philosophy as "a thoroughly functionalist teleology". UK policy-making seems to concentrate on pragmatic, evolutionary responses to emerging integration problems; the firm embracement of EU free movement and a simultaneous cutting-back of post-colonial ties have largely gone uncontested. Indeed, while post-colonial labour links continue to matter empirically (chapter 5), the debate about their citizenship rights is closed in Britain given the earlier and less politicised detachment process, much in contrast to France.

Despite the wide-spread silence of political elites on post-colonial governance, racism and migrant-hostile sentiments might play their role underneath a surface of equal opportunities and good race relations, as statement 2 in box 8.7 suggests. While UK policy-makers officially highlight economic utility and labour demand much more uniformly than in France and do seldom make any links to migrants' origin whatsoever, ethnicity and origin seemingly continue to form an unspoken backdrop of labour migrant selectivity. We need to bear in mind, again, that classification by skill level and by origin closely interact: higher professional qualifications render an individual migrant more independent from their country of origin. Indeed, a high-skilled worker from a former British colony – even if 'brown and black' – does not face the same restrictive admission practices as their lower-skilled worker compatriot. Eventually, stratification effects of ethnicised recruitment patterns and post-colonial flow management are uneven across migrant skill levels and impact on lower skilled workers most (chapter 9.4). The often lower educational opportunities in former colonies in the poorer New Commonwealth – as opposed to the rich Old Commonwealth – de facto continue to produce hidden ethnic hierarchies which the racialised redefinitions of citizenship in the 1970s and 1980s have initiated (chapter 5).

8.3.2 Adverse EU Free Movement Effects: 'Pressure' on Public Services

A majority of interviewees further suggest that high levels of A8-inflows and associated perceptions of 'pressure' on the social infrastructure – amplified during the economic crisis – have provoked the recent retreat to control-biased admissions. EU free movement effects are linked to recent restrictions in the skilled and high-skilled routes and hence further curtail TCN workers entry options. This demonstrates a) the socio-political limits of the economic benefits argument around EU free movement; and b) the restrictive structural consequences that perceived adverse effects of EU-inflows spin-off to TCN labour admission policies.

Box 8.8: EU Free Movement as 'Pressure' on Public Services and Local Infrastructure

S1: Where there was an effect which I think took a while to appreciate, was on the public services side, and that's behind some of the decisions about Bulgaria and Romania. [...] Things like education funding for schools flowing through six to twelve months later, things to do with health... If you've got Peterborough - I'm sorry to say Peterborough because everybody uses Peterborough - a town in East Anglia, you've suddenly got a lot of pressure on local services and not a lot of cash around. (UK1-BUS)

S2: "It also had adverse side effects, so in the East of England, for instance, Norwich, let's say, East Anglia. They considered themselves to be swamped by Polish people and all this coming and going with impacts on the local infrastructure." (UK5-GOV)

More precisely, the control impulse is believed to have led to a redesign of the initially liberal approach to EU-migration and, by extension, has formed an argumentative basis for further limiting TCN routes. Despite the net positive fiscal effects of EU free movement (Dustmann, Frattini et al. 2010) which all interviewees explicitly appreciated, concern about A8-migrants' impact on the social infrastructure and its financing has grown. Statements in Box 8.8 forge the notion of 'pressure' due to unexpectedly high A8-inflows and settlement⁹⁴. Experts construe 'adverse effects' of an otherwise economically beneficial migration, especially regarding schooling and housing policy. Some address sheer numbers in the pressure scenario, but others also highlight qualitative elements such as children's language proficiency in school, alluding to more general concerns about socio-cultural cohesion and the impacts of migration – as in 'being swamped by Polish people' – on the local British population.

The perception of 'pressure' on social services had two inherent effects on successive labour migration selectivity. Firstly, the British government has imposed stricter limitations on Bulgarians and Romanians who, unlike A8-nationals, need a permission to work in the UK unless they qualify as high-skilled migrant or enter via routes exclusively reserved to them like agriculture and food processing. Secondly, the 'pressure' perception has further limited the scope for admitting workers from outside the EU, and the next subsection will discuss the relevance of public opinion and electoral politics in that respect.

Some policy experts expect EU free movement to sharpen policy paradoxes in the ongoing struggle between economic openness and tough border control (UK2-UNI, UK4-ADV). The UK might have opted out of most European legislation on migration issues and Schengen. Yet, its deliberate and, in comparison to Germany, very sudden integration in a changing

⁹⁴ Even though statistics indicate increased return rates during economic crisis (Office for National Statistics 2011) and some policy-makers emphasise the usefulness of 'exporting unemployment' in this context (UK1-BUS), most interviewees have been surprised by high inflows and settlement rates.

European labour geography (chapter 5) has increasingly challenged the country's core norms on migration from a socio-cultural integration perspective (cf Favell 2001). As a result, the preference of EU free movers has provoked a stereotypically pragmatic and rather unpoliticised control backlash with severe restrictive effects for post-colonial and other TCN migration twice: firstly, when the embracement of unlimited A8-flows coincided with the decision to completely suspend low-skilled TCN migration; and a second time when perceived 'pressure' on the social infrastructure by A8-workers fuelled a further restriction and annual cap of most skilled and high-skilled TCN permits in 2010.

8.3.3 Public Opinion, Electoral Politics and Symbolic Control Politics

The above-depicted 'pressure' scenario alludes to links between public opinion, electoral politics and the revival of a control-bias. Interviewees explain the electoral saliency of migration with the perceived adverse effects of EU free movement. They consistently emphasise the relevance of the Conservative Party's electoral promise to cut back net migration rates 'to the tens of thousands' (chapter 5), and consider the recent turn to tighter controls and numerical limits to be at least partly anchored in this promise (box 8.9). Especially the first statement interprets the government change in 2010 as a major ideational shift (back) from economic liberalism towards tough controls and reducing numbers 'by hook or by crook'.

Most interviewees criticise the restrictive use of the labour admission routes in the government's attempt to bring down overall net migration and court public opinion. As chapter 6 demonstrated numerical limits apply mainly to Tiers 1 and 2 (general), while the ICT route, entrepreneurs, working holidaymakers have so far been excluded. Net migration rates also imply British emigration rates and EU free mover entries, both of which cannot be controlled by government policies. A recent MAC report on the annual cap highlights that Tiers 1 and 2 account for only 11 per cent of inflows, or around 50,000 newcomers in 2009. With overall non-EU-inflows at around 292,000 in 2009, the government's target of cutting net migration to 'the tens of thousands' can hence hardly be reached even if Tier 1 and 2 were cut back to zero (MAC 2010a). The inclusion of EU-nationals as 'migrant' inflows in the cap calculation moreover challenges the principle of free movement and EU citizenship for the sake of speaking to a notionally hostile public opinion, and thereby creates a false impression of controllability of EU entries (statement

3). Moreover, chapter 5 indicated that student inflows are specifically important and to some extent are family reunions as well.⁹⁵

Box 8.9: Public Opinion, Electoral Politics and Symbolic Migration Control

S1: "The Labour government very strongly believed in the economic benefits of labour immigration [...]. Now of course, with the numbers going up drastically, and with public opinion really be very strongly in favour of reducing immigration, to the end of the Labour government they really had to do something. [...] So when Blunkett said 'no limit', the Tories immediately said 'the points-based system without a limit is pointless' [...]. So the concern now is all about numbers. [...] it's really about bringing overall net migration down, by hook or by crook [...]" (UK7-ADV)

S2: *[talking about economic utility of labour migration for Britain]* "I think there's still an acceptance that that's correct and the government remains committed to attracting the brightest and the best. But, the country just doesn't have confidence that we're running the system in the way that they expect it to be run. So we also need to control numbers, in this case by limiting numbers. But the thing that often gets lost is that the two aren't incompatible. The two can go together, it just means that you need to be more selective about the people who come in." (UK5-GOV)

S3: *[talking about government's aim to cut back net migrants inflows to the 'tens of thousands']* "They probably should have excluded A8-workers from their definition of migrants [...] Polish workers tend to resent being referred to as migrants, they're just EU workers exercising their freedom. Unfortunately, the great unwashed public out there who have tendencies towards racism doesn't really pay that much attention to whether people are from within or outside the EU. So it probably wouldn't have helped them in terms of gaining votes, even if it would have made targets easier to actually achieve." (UK2-UNI)

Actual control might not be the policy rationale where public opinion is the prime target, interviewees suggest. A business representative emphasises the symbolic function of migration control which, irrespective of actual control levers, makes "people feel" that migration is 'well managed' (UK1-BUS, similar statement by UK5-GOV). While the second interviewee quoted in box 8.9 seems confident that increased entry selectivity can reconcile economic growth objectives in labour migration policies with the control focus, others are more sceptical about the virtues of 'playing the numbers game'⁹⁶. Most interviewees express some concern about putting

⁹⁵ Student will also be restricted considerably, and a consultation looked into options for restricting family reunion rights, but policies have not been finalised as of December 2011. Courts raised concerns that any further restriction of family reunion would in fact be unlawful (MAC 2010a).

⁹⁶ A workshop of the same title – held in London on 5 September 2011 and organised by COMPAS at the University of Oxford and the Migration and Law Network at the University of Kent – critically reappraised the Coalition's migration policy. Business, NGO, trade union and research representatives largely castigated the 'numbers game' as unsustainable and factually unachievable propaganda which plays with public opinion while putting social cohesion, economic growth and the UK's international reputation at risk.

high hurdles in the way of high-skilled and skilled inflows to compensate for a lack of control over other routes. This could entail particularly paradoxical effects as public opinion is not believed to distinguish between EU and non-EU entries (statement 3) and indeed find skilled TCN workers more acceptable than the Eastern European “agricultural guys in Lincolnshire” (UK3-ADV). In fact, policy experts “don’t believe that there is a substantial public concern about [non-EU] people working for KPMG” (UK8-GOV). Yet, with limits on Tiers 1 and 2 these are the migrant workers being affected most by annual caps.

In effect, the control reaction to strongly felt adverse effects of the laissez-faire A8 free movement approach targets high-skilled and skilled TCN workers in lack of control over the former flows. Not only does this curtail the economic rationalities of global high-skilled labour competitiveness and skilled labour shortages described in chapter 7, it also sustains a policy paradox which cannot be resolved without either reversing the numerical targets or accepting policy failure in terms of not being able to achieve the targets. Policy-makers in the UK thus face an uneasy dilemma: control and inflow reduction is notionally required to appease public opinion, but control levers are only available for the skilled and high-skilled segments of labour migration which are considered ‘useful’ for economic growth and ‘the public’ allegedly does not mind. Interviewees hence describe a wrestling between the political commitment to reduce flows and “the genuine needs” of a liberal market economy (UK2-UNI, UK3-ADV). Most interviewees show concern as to the potential detrimental effects of annual migration caps for business, and for the international competitiveness of the UK market location (cf. House of Commons 2011).

The attempt of limiting flows and increasing voluntary returns – in lack of being able to otherwise enforce them – by creating a “hostile environment”⁹⁷ for migrants is pronounced in the UK. Indeed, the stereotypical trade-off between a very favourable anti-discrimination legislation in multiculturalist façon and a strong control and border focus (chapters 3, 5) is impressively supported by recent comparative studies of different rights granted to TCNs (Huddleston and Niessen 2011). From a theoretical stance the return to controlling borders and numbers in recent British migration policy reflects policy continuity. Alongside the initial unlimited liberal embracement of EU accession flows, New Labour’s decision to introduce a PBS with a welcoming undertone has broken uneasily with the control primacy in British migration policy that governed most of the second half of the Twentieth century (chapter 5). Against this backdrop, the

⁹⁷ This terminology was used by the Border Agency Interim Chief Executive, Jonathan Sedgwick, and the Head of the Immigration Group at the UKBA, Michael Coats, in the oral evidence to the Public Accounts Select Committee (House of Commons 2011).

coalition government's recent reaffirmation of 'immigration control'⁹⁸ as a core value mirrors the persistence of an 'untouchable' and 'inflexibly sacred' core of the British integration philosophy also a decade after Favell's (2001) original diagnosis.

There is an unspoken connection to the informal labour market position of comparatively numerous migrants in Britain (chapter 5). The sheer absence of consideration for this issue across interviews is revealing: labour admissions and the 'fight' against irregular migration are treated as two completely detached policy areas, confirming the pattern of 'wilful negligence' some have diagnosed (Wilkinson and Craig 2011). Hansen (2010) has argued that as irregular workers "constitute key cogs in the EU's so hotly coveted flexible labour market", 'more barbwire' and restrictive entry regimes sustain, rather than fight, their exploitable position. Given the recent backlash to tough border controls and 'hostile environments' for notionally 'unwanted' migrants and its very coexistence with one of the most deregulated labour markets in Europe, Britain's hidden informal workforce is likely to be marginalised even further through selective labour migration policies.

8.4 Explaining Differences: National Contextualisations of Economic Imaginaries

This chapter scrutinised the meanings attached to country-specific classifications of migrant workers in labour admission policies. I argue that nationally distinct interpretations and uses of the social and politico-legal dimensions of labour migration (table 8.10) account for the differential classifications by origin selection, domestically acquired skills, anticipated integration and assimilation capacities, or annual caps found in chapter 6. For example, while EU free movement constitutes a crucial shared regulatory backdrop in all cases with regard to defining the economic imaginary of EU labour self-sufficiency in lower-skilled realms, its socio-political role in border-drawing varies considerably.

More precisely, in Germany, the Bismarckian welfare state is omnipresent as structuring institution in literally all labour-market related policy-making, including labour migration. The economic imaginaries driving high-skilled and skilled labour admissions and the logics of 'earned' integration via work are considered as mutually reinforcing: economically, the genuine belief in the urgency of labour migration prevails given the demographic decline of the domestic workforce; socio-politically, this nourishes a felt obligation to anticipate and promote the social

⁹⁸ Comparatively strong notions of public interest, public order, and management of perceived migration 'pressure' underpin British admissions, as the annual caps suggest. Indeed, the British debate frequently applies the term 'control' while German and French interviewees and policy documents use vocabulary of 'management' or 'steering' instead (German: *Steuerung*, French: *gestion*).

integration prospects of migrant workers. This is discussed as 'lessons' learned' from the guest-worker era, but it also bears economic utility notions as to the expected welfare contribution of potential wage earners. Moreover, there is a dominant notion of furthering the 'European project' economically and politically, which, in lack of a post-colonial labour geography, dominates the German geopolitical agenda. Despite a distinct Europeaness of the labour geography, less openly discussed ethno-cultural hierarchies of migrant workers surface as a continuation of deliberate ethnic selection. While Turkish guest-workers were chosen as fellow Europeans in the post-war era, the current preference of other Western workers symbolically castigates the large Turkish (Muslim) resident population and their notional integration problems.

In France, the legislative focus on selecting by origin, mostly from former colonies, is expressed as post-colonial population management, containment of the informal migrant workforce, and symbolic control politics based on a historical lock-in in the 'zero migration' rhetoric. French governments try to manage and disassemble the post-colonial labour geography, by selecting entries by origin, renegotiating the inclusive integration and citizenship model, and dictating co-operation requirements in irregular migration control to former colonies in return for controlled labour market access of their nationals. Highly discretionary regularisations draw some informal workers into the regulatory realm of utilitarian 'skilled shortage' recruitment, while further confining others to informal spaces in a highly segmented labour market. With their strong differentiation by skill level bilateral migration management agreements and exceptional regularisations deliberately cut-off formal post-colonial labour ties, especially regarding lower-skilled workers whose position is further marginalised. Economic selectivity overrides and symbolically revokes residence and citizenship rights of those not selected under the same premises; economic imaginaries of labour migration are being mapped onto socio-cultural definitions of belonging (rather than reinforcing each other). In a much more pronounced way than in Germany, French labour migration border-drawing targets residents, prospective citizens and/or informal workers, often of post-colonial descent, rather than being concerned with demographically founded labour demand.

In the UK, lastly, TCN labour admissions are framed as being directly dependent on the degree of openness to EU free movement in two ways: firstly, A8-migrants have come to substitute a largely post-colonial workforce especially in lower-skilled professions and further the British detachment from its imperially dyed labour geography. Secondly, perceived adverse effects of large EU-inflows after 2004 on public services have provoked restrictions to the skilled and high-skilled TCN entry routes. Many observers discuss numerical limits on TCN work inflows as electoral response to alleged public hostility by the Conservative-led government. In effect, the dominating economic rationalities in British labour migration under New Labour are once again

penetrated with a primordial control philosophy. This creates a specific dynamics of border-drawing: as soon as the annual limit of predefined inflows is met, selection by skill level, qualification, earnings and professional experience – brief, the economic policy drivers – are drastically muted. The complete discursive disregard for a large informal migrant labour market and post-colonial sorting effects of current labour admissions, however, does not preclude the continuation of economic *laissez-fairism* and racialised migrant selectivity undercover.

Several points for discussion (chapter 9) emerge from these findings. The first regards an overarching comparative claim about labour migration border-drawing. The interaction of a *cross-nationally shared* normative framework of economic border-drawing with references to capitalist coordination systems with three *nationally distinct* social and politico-legal classification schemes produce country-specific dynamics and border-drawing regimes. In comparative perspective nationally variable border-drawing regimes emerge, I argue, from the contextualisation of shared economic imaginaries within specific socio-political environments and labour geographies. Dominant dynamics exposed in this chapter include:

- a mutual reinforcement of perceived CME workforce demands and Bismarckian integration via work logics in Germany, which coincide with politico-legal border-drawing in Euro-centred geopolitics;
- a attempted detachment from inclusive Republican citizenship and the post-colonial labour geography by enforced economic selection principles in France;
- an official muting of LME-typical economic openness to labour migration with social cohesion concerns, electoral politics, and tough migration control in the UK, coinciding with a deliberate more unofficial disregard of the large post-colonial and informal workforce.

These interactions, secondly, re-emphasise the importance of the multidimensional policy analysis of labour migration management conducted in this thesis. Social and politico-legal border-drawing logics uniquely interact with shared economic imaginaries in multiple ways to mutually determine where the demarcation line between desired and undesired, acceptable and unacceptable, legal and ‘illegal’ labour migration runs. The co-existence of similarities and differences in classification regimes is by no means random, but highly structured according to the specific border-drawing dimensions under scrutiny and their interaction with each other.

Thirdly, a reflective discussion of empirically traced border-drawing dynamics against the backdrop of the idealtypical benchmarks developed in chapter 3 can help exposing relevance, hierarchies, and interactions between various border-drawing dimensions and sites in German, French and British policies. This debate can critically add to a broader situation of migration policy

analysis vis-à-vis capitalist coordination systems, welfare state and citizenship regime literatures. Fourthly, the specific dynamics between border-drawing dimensions within individual classification regimes deserve theoretical attention in light of their selective arrangement in the *strategic* governance of foreign workers and residents (chapter 2). The analysis has showcased the relevance of context and its political (re-)ordering for understanding the emergence of variable classification regimes. I argue that a country's specific embeddedness in EU free movement, post-colonial labour links, the experience of 'adverse' consequences of past recruitment decisions, but also felt demographic pressure scenarios (chapter 5) mutually shape current labour migration management and are imprinted in border-drawing regimes.

Last but not least, the question of border-drawing effects on migrant workers (chapter 2) re-emerges ever more clearly from the data presented here: adding to the previously established correlation between skill level targeted and rights offered (chapters 6 and 7), we also find variable modes of – and accounts for – the interaction between rights and a migrant's country of origin, ethnicity, origin of skills, and assumed or 'proven' integration capacities. In their multiplicity and opacity these interactions problematise the state of a rights-based labour migration approach in Europe.

Table 8.10: National Socio-political Contextualisations of Labour Migration Policies

Key Reference Points and Contextualisation Dynamics	Germany	France	United Kingdom
Welfare State	anticipation of socio-economic integration pathway in Bismarckian welfare state; ex-post 'earned' integration and residence rights for semi-legal residents, towards 'Bismarckian linchpin'	not emphasised (yet, social contribution logic applies in legislation); ex-post admission of informal workers as 'earned' integration	surfaces as perceived adverse effects of A8 inflows ('pressure on public services')
Citizenship Model	'earned' socio-economic integration in labour migration overwrites ethnic belonging model	labour migration policy as management of migrant resident population on pathway to citizenship; overriding of inclusive civic citizenship model with economic selectivity logic	not emphasised; seemingly pragmatic and depoliticised approach to citizenship; silent overriding of inclusive citizenship with economic selectivity and deliberate annual cap logics?
Migration History	'lessons learned' from guest-worker period fuels anticipation of migrant workers' socio-economic integration potential; absence of colonial past	colonial ties structure selection by origin; bilateral agreements with former colonies as migration control and expulsion policy; high politicisation	early post-colonial downsizing and pragmatic laissez-faire approach to EU entries as far-reaching detachment from post-colonial links
Integration Model	coincides strongly with welfare state model as social integration via work; stratification of cultural proximity of different migrant groups within Home Office discourse	'earned' integration layers assimilation approach with economic definitions of 'success'	social cohesion and public order in multiculturalism still underpinned by tough border control focus (rhetorically, at least)
EU Free Movement	cautious piloting in bilateral agreements; EU mobility as default labour market condition; political ideal of furthering European project; integration within European labour geography	differential shortage lists for TCN and EU-nationals used to (symbolically) contain informal labour market and <i>sans-papiers</i> workers	by far highest A8 inflows; used for detachment from post-colonial labour geography; liberal economic approach under New Labour; perceived adverse effects of A8 entries drives current restrictions of TCN routes
Electoral Politics	not emphasised apart from discussion of integration potential	historical rhetoric 'lock-in' in zero migration approach; symbolic control politics	annual caps as electoral response to adverse EU free movement effects; symbolic control politics
Others	strongly perceived 'demographic pressure' scenario fuels demand for foreign workers and reinforces Bismarckian integration via work logic	high levels of politicisation around citizenship and informal migrant workers' rights	2010 general elections as context for pronounced policy change; by far highest TCN and EU-inflows

Source: author's analysis of semi-structured interviews with policy-makers in further elaboration of table 6.7

9 Conclusion and Discussion

The aim of this thesis was to understand and explain how states ‘manage’ labour migration in comparative perspective, with a specific focus on legal classifications of migrant workers and the meanings vested in these. This chapter moves beyond the empirical-analytical perspective and provides a discussion of wider empirical and theoretical contributions which emerge from the thesis’ findings, as well as highlighting policy implications. This implies, firstly, a summary of the research design and overview of findings and conclusions. On this basis, I secondly evaluate contributions emerging from the thesis’ comparative analysis of *border-drawing regimes as empirical fields*, with specific focus on the value of regime literatures in accounting for labour migration management comparatively. I sustain the call for a configurational policy analysis approach to overcome partial comparative accounts and understand the various interaction dynamics of economic, social and politico-legal borders. Dealing with theorisation, thirdly, I appraise scope and limits of the *border-drawing concept* developed in this thesis. I highlight three key aspects as trigger points for further theorisation and research agendas, and discuss their analytical implications: the powerful role for semiotic structuration and its political ordering effects in migration governance, the role of strategic contextualisations in this process, and the highly political and dynamic character of emerging policy formations and associated statuses and rights. In this context, I also reflect on the merits and shortcomings of interpretive policy analysis and the usefulness of this thesis’ analytical focus on critical governance and cultural political economy. Lastly, I will briefly consider *border-drawing effects* as policy implications of labour migration management. I concentrate on emerging logics of rights and right trade-offs for migrant workers, the implicit governance of other policy-making targets in border-drawing, and the emerging scope for a European labour geography. This reflective discussion links contributions made in this thesis to potential new research agendas in an increasingly salient area of economic governance.

9.1 Findings and Conclusions

Before being able to critically evaluate findings in the light of the conceptual and theoretical perspectives laid out in this thesis, this section briefly summarises research aims and design, summarises findings, answers the research questions and draws main conclusions.

9.1.1 Summary of Research Aims and Design

This thesis examined and compared current labour admission policies with regard to non-EU migrant workers in Germany, France and the United Kingdom. My main research aim was to *explain similarities and differences in labour migration management* by answering a subset of research questions:

- R1: How do labour admission regimes de jure classify migrant workers?
- R2: Which meanings are vested in these legal classifications?
- R3: What roles do the economic, social and politico-legal dimensions and sites of border-drawing play in a classification regime?

In order to embark on the comparative research journey, I first conceptualised labour migration management as statutory border-drawing by means of legal classification of migrant workers (chapter 2). Drawing on Bauman's notion of order design and the Bourdieusian concepts of classification and symbolic power, I argued that states retain a powerful role in defining legal and illegal statuses through statutory legislation (classifications), with far-reaching consequences for migrants' experiences in the host country. This has positioned the thesis against accounts that perceive migration policy mainly as a matter of effective territorial border control. In a joint engagement with interpretive policy analysis, critical governance studies and cultural political economy I specified the border-drawing perspective with three claims: 1) Normative prescriptions underpin the choice of particular classification principles, thus issuing a vital role to *semiosis* in policy analysis. 2) Border-drawing involves the *selective arrangement* of classification principles, their normative references, and legal statuses for migrant workers in policy. 3) These selective arrangements are embedded in existing structures, but they equally entail strategic room for manoeuvre for policy to (re-)constitute relationships and meanings in the social world. The focus on unpicking policy meanings in current legislation precluded accounts of the political processes leading to the legislative compromise or the ongoing contestations following it. These aspects being well covered in comparative migration literature (see introduction), this thesis adds a so far missing in-depth understanding and comparative explanation of the substantial normative references vested in labour migration management. R1 and R2 emerged from this debate.

To populate the border-drawing concept empirically and render it useful for comparative analysis, chapter 3 specified three empirical *border-drawing dimensions* – economic, social and politico-legal – based on a review of comparative migration policy literatures. I argued that each

dimension can be associated with a specific *border-drawing site* in the empirical field, thus offering specific entry points for the comparative analysis. Border-drawing in its three dimensions, I argued, is carried out across the sites of capitalist coordination systems, welfare states, and citizenship regimes with cross-country variations. I developed regime-theoretical presumptions about the potential logics and normative frameworks that underpin labour migrant classifications at each individual border-drawing site in different regime types, hence forming analytical benchmarks for empirical cases. I emphasised the shortcoming of comparative (labour) migration accounts to account for the multidimensional character of border-drawing processes by usually drawing on only one type of regime theory. By scrutinising the *interactions* between dimensions and sites and establishing their relative weight in a classification regime, the thesis offers an account of the *multidimensionality of border-drawing* processes in labour migration policies, as R3 reflects. Jointly, the three questions helped generating comparative explanations for similarities and differences in labour migration management in the three cases studied.

Being interested in policy meanings and their comparative emergence, the research drew on a constructivist-interpretivist ontology and epistemology which informed an interpretive analytical approach (chapter 4). The study aimed to understand cases in-depth and was thus designed as a contextualised small-n comparison. I established a comparative approach using idealtypical presumptions about border-drawing sites as theoretical benchmarks against which to contrast empirical cases. The study concentrated on the EU as contextual setting, analytically incorporating its regulatory framework as part of each case. Germany, France, and the UK were selected on the basis of their idealtypical cross-pairing in terms of border-drawing sites. This choice enabled a wide coverage of potential normative frameworks of border-drawing across its economic, social and politico-legal dimension despite the thesis' limited scope of only three cases. Legal documents and interviews with policy-making elites provided access to data on legal classifications (R1) and their meanings and references to border-drawing sites (R2 and R3), respectively. Data analysis used interpretive methods in a self-reflective manner and firmly anchored interpretations in case contexts.

9.1.2 Summary of Findings

To pave the floor for the interpretation of comparative findings, chapter 5 identified each case's theoretical position in regime literatures to establish key border-drawing logics, drew out main characteristics of the individual labour geographies into which migrant workers are admitted, and briefly summarised the features of countries' recent reactivation of labour recruitment. The

emerging contextual analytical framework displayed both similarities and differences between cases. Countries shared a utilitarian approach in recruiting foreign workers to fill shortages, especially after World War 2, as well as a pattern of ethnic selectivity which preferred fellow Europeans. This reflects a wider conflation of economically liberal and ethnicised definitions of belonging in Europe (Hansen 2000; Hansen and Hager 2010) which, as the analysis in chapters 6-8 has confirmed, represents a continuous pattern in current labour migration management. The profiling of labour geographies demonstrated cases' variable embeddedness in European and other labour exchanges which shapes country-specific contexts of current labour migration management. It offered a wider context for analysing non-EU labour admissions against the empirical backdrop of EU-internal mobility regimes and specific historically derived relationships with sending countries. Moreover, the perception of demographic pressure in Germany and the lack thereof in the other two cases further triggers nuances within a notionally common policy shift toward reactivating foreign labour recruitment in Europe. Case profiling thus anchored the discussion of comparative similarities and differences in the different dynamics created by case-specific regime theoretical reflections and labour geographies.

Starting from this initial engagement with case contexts, the thesis dedicated three chapters to presenting findings. In a first step I mapped classification regimes by means of a legal document analysis (chapter 6). This established main classification principles in each country as well as in comparative perspective, therewith answering R1. The analysis exposed a high significance of skill level and labour scarcity across classification regimes. Yet, the mapping exercise equally highlighted markedly national features. The miscellaneous prevalence of selection by origin, protectionist policy tools regarding the lower-skilled job market, selection by domestic qualifications, social cohesion, and the operation of annual caps layer the seemingly shared labour migration management approach with nationally distinct policy tools and classification principles.

To address R2 and R3 I continued to analyse the meanings vested in the found legal classifications as articulated by policy-makers in interviews. Chapter 7 concentrated on similarities found in chapter 6. The interpretive analysis exposed mutual normative reference systems which underpin classification by skill level and labour scarcity, and can be condensed into three economic imaginaries of labour migration (R2). I have shown that legislation in all three cases creates similar roles and admission routes for high-skilled, skilled and lower skilled workers – with varying assumptions about their scarcity – by prioritising different aspects, locus and rationales of the economy. Imaginaries of high-skilled global labour competitiveness, skilled national labour shortages, and EU lower skilled labour self-sufficiency emerge from this shared

cultural political economy of labour migration (table 7.7). These similarly structure admissions of migrant workers across cases despite differences in capitalist coordination modes, thus suggesting a powerful and cross-nationally shared economic dimension of border-drawing.

The first economic imaginary strongly refers to the norms of 'competition state' and emphasises Schumpeterian innovation logics as drivers for easier recruitment of high-skilled workers. National nuances in the *modus operandi* and interpretation of high-skilled labour admissions indicate the persisting relevance of capitalist varieties to understand labour reproduction comparatively. The discursive and legal embedding of the skills divide – 'enabling' facilitation and corporatist coordination in Germany and state-led promotion of permits in seemingly 'dirigiste' France – partly confirm VoC presumptions of economic border-drawing. In the second economic imaginary, the competitiveness logic becomes less important, but the focus on specific vs. more generic skill shortage recruitment confirms economic border-drawing logics across capitalist varieties. However, domestic employment and skilling agendas restrict the legitimate space for migrant workers. In the third economic imaginary, we observe a strong politico-legal underpinning of migrant classifications by the normative framework of EU free movement: the perceived ample supply of EU free movers severely curtails legal entry options for lower skilled TCN workers and silences economic drivers for recruitment. As the discussion of underpinning labour geographies has shown, however, limits to legal routes do not prevent but often even 'fashion' informal residence and employment for non-selected groups (Anderson 2010; Morice 1996, 2010). Varying references to the norms inscribed in citizenship regimes but also relationships with specific sending countries in national labour geographies create distinct pretexts and political urgencies for lower skilled labour migration management.

Scrutinising differences, secondly, chapter 8 exposed nationally distinct interpretations and uses of classifications by origin selection, domestically acquired skills, anticipated integration and assimilation capacities, or annual caps found in chapter 6 (R2). Policy-makers' accounts demonstrate that the application and meanings of these classification principles vary significantly across cases, with specific key themes forming normative reference points for legislation (table 8.10). These themes contextualise economic imaginaries with reference to the social and politico-legal dimensions of border-drawing in nationally distinct ways (R3), and account for persisting differences in comparative labour migration management.

German policy-makers are most concerned with demographic workforce shrinking. In order to support higher skilled labour admissions according to the first two economic imaginaries, legislation draws on the social inclusion pathways of the Bismarckian welfare state. Moreover, there is a dominant notion of furthering the 'European project' economically and politically, which

corresponds to the specific German labour geography. French ‘immigration choisie’ is articulated as post-colonial population management and renegotiation of inclusive civic citizenship. Classification based on economic utility overrides and symbolically revokes residence and citizenship rights of those not selected under the same premises. Yet, at the same time the differential access to high-skilled permits for migrants of diverse origins exposes the strong politico-legal mediation of economic border-drawing principles. British admission policies utilise a liberal EU free movement approach to delink the country from the post-colonial labour geography and restrict TCN access. Equally the perceived adverse effects of large labour migration flows in the last decade has informed the annual cap policy, thus further limiting TCN entry options even in the high-skilled and skilled realm. Social and politico-legal border-drawing, and to a large extent electoral politics, hence severely curb economic border-drawing rationales in the stereotypical liberal market economy. Ultimately, we find nationally distinct *border-drawing regimes* with specific roles for, and interaction dynamics between, the economic, social and politico-legal dimensions of border-drawing (R3):

- a mutual reinforcement of perceived CME workforce demands and Bismarckian integration via work logics in Germany, which coincide with politico-legal border-drawing in Euro-centred geopolitics;
- an attempted detachment from inclusive Republican citizenship and the post-colonial labour geography by enforced economic selection principles in France;
- an official muting of LME-typical economic openness to labour migration with social cohesion concerns, electoral politics, and tough migration control in the UK, coinciding with a deliberate more unofficial disregard of the large post-colonial and informal workforce.

Overall, the ideographic analysis has substantiated the relevance of context – such as policy legacies in specific labour geographies – and its political (re-)ordering in explaining the emergence of variable classification regimes. I found that a country’s specific embeddedness in EU free movement, post-colonial labour links, the experience of ‘adverse’ consequences of past recruitment decisions, but also felt demographic pressure scenarios (chapter 5) are heavily drawn into social and politico-legal contextualisations of labour migration management.

In comparative perspective, these findings suggests variable *selective arrangements* of a) a widely shared normative framework of capitalist coordination in the economic realm with b) nationally-distinct social and politico-legal normative reference points in relation to welfare, citizenship, electoral politics, and the variable underpinning labour geographies. Interactions

between economic, social, and politico-legal border-drawing shape case-specific demarcation lines between desired and undesired, acceptable and unacceptable, legal and 'illegal' migrant workers. Ultimately, it is the nationally distinct socio-political contextualisation of a common cultural political economy of labour migration which explains similarities and differences, and their very co-existence, in European labour migration management. The thesis hence contributes a more abstract understanding of an integrating EU market economy which coexists with continuously diverging labour geographies and European societies in response to the introductory puzzle over policy similarities and differences.

These findings and research conclusions raise several issues for discussion in light of the literatures reviewed earlier in the thesis. The subsequent sections will reflect on labour migration border-drawing against the backdrop of findings from three angles: 9.2) the explanatory capacity of regime theories to account for the *empirical field of border-drawing*, 9.3) key aspects for further theorisation of the *border-drawing concept*, and 9.4) *border-drawing effects* in terms of main policy implications. These sections integrate a reflection on contributions and limitations of this research as well as scope for future research agendas where appropriate.

9.2 Analysing Border-Drawing Fields: Towards Configurational Policy Analysis

This section assesses empirical findings against the analytical benchmarks derived from political economy claims and regime literatures. What does a shared cultural political economy of labour migration and its distinctly national socio-political contextualisation mean in relation to capitalist coordination systems, welfare states and citizenship regimes? Based on the various interactions of border-drawing institutions that this thesis has established empirically, and given the limited ability of any one individual regime literature to account for those, I emphasise the merits of the multidimensional understanding and configurational analysis of labour migration policy carried out in this thesis. Indeed, my findings illustrate that labour migration policy is not purely a matter of capitalist coordination, but also works to re-construct particular philosophies of welfare, social cohesion, and citizenship. This also means that the analytical distinction between initial migrant admission policy and migrant integration has to be reassessed empirically. This section equally reflects on the analytical limitations of this PhD project and discusses scope for future research.

9.2.1 *Border-Drawing and Capitalist Coordination: Fragmented Political Economies?*

Scholarship concerned with state governance in capitalism provides prominent grounds for the assumption that the anticipated economic contribution of a migrant worker in terms of innovation, competitiveness and growth decisively shapes migrant admissions and rights stratification in the host country (Cerny 1997; Jessop 2002). Moreover, VoC accounts let us expect variations in skill levels and qualification profiles targeted across national economies (Menz 2009), and make more general assumptions about the different flavour of economic coordination of labour migration (Hall and Soskice 2001b; Schmidt 2002). This thesis' empirical findings partially confirm these economic border-drawing claims, but also point to severe limits of the economic comparative perspective on labour migration policy.

By default labour migration policy targets *economically useful* foreign workers. Economic utility is clearly assessed at entrance (e.g. shortage lists and RLMTs) and a utilitarian logic is maintained throughout the initial residence period (e.g. work permits valid for specific jobs and employers). Utilitarian selectivity at entry hence precedes a utilitarian delineation of residency and settlement paths, at least until a change of status to LTR, family member, or citizen provides higher levels of decommodification. This empirically confirms Schierup et al.'s (2006) economic membership claims with a cross-national trajectory: migrant workers' labour, free movement, residence and settlement rights depend upon their perceived economic utility, at least initially.

However, the analysis highlighted the uneven operation of the scarcity principle, tracing pronounced variations as to what economic utility means regarding migrants of different skill levels. The CPE perspective proved highly valuable analytically as it exposed a three-fold distinction of the cultural political economy of labour migration according to varying normative reference systems. While a logic of global competitiveness and Schumpeterian innovation clearly guides border-drawing and sense-making in the high-skilled global labour competitiveness imaginary 1, it collapses in imaginary 2 and 3 which are governed by competing state projects. We have to re-evaluate the empirical scope and locus of competition state in this context. Findings demonstrate the limits of the competition state 'at home and abroad' (Cerny 1997). Utilitarianism towards labour market newcomers 'abroad' is strongly conditioned by the degree of utilitarianism targeted at domestic labour market participants 'at home'. Especially lower-skilled and skilled admission policy breaks with competitiveness and innovation targets. It is presented as a matter of steering domestic employment and forging a self-sufficient EU labour market. Labour self-sufficiency claims and restrictive migration responses for lower-skilled jobs are commonly contextualised within the politico-legal normative framework of EU free movement and deliberately marginalise the – more or less frequent – informal employment of TCN workers in

these jobs. Competitiveness logics might not be absent from economic governance of this labour market segment, the question is rather who do they target in different parts of the economy, migrant workers, EU free movers or domestic employees? Section 9.4.3 elaborates this point.

The competition state is hence present and absent in labour migration policy-making at the same time, depending on the focus, locus and objective of recruitment and the part of the economy that is being accentuated in policy. While an overall trajectory of competitiveness and innovation-based growth might be pursued in the national economy and supported by state legislation, it does not necessarily find entrance in each and every segment of the economy, nor govern different groups of workers alike. The dominant principle of global competitiveness, innovation-based growth and easy recruitment in the high-skilled realm co-exists with national protectionism and closure towards foreign labour entries for lower-skilled jobs (the British annual cap system being maybe the most drastic cut-off mechanism for the otherwise economic utilitarian recruitment rationality). Several sectors of the economy might face socio-political limits to recruiting workers under a competitiveness and utility umbrella (Ruhs and Anderson 2010b).

Overall, this thesis' findings speak of much more fragmented 'real' political economies than capitalist hegemony accounts – also due to their macro-level analytical focus – are able to discern. In labour migration at least, economic coordination does not fully embrace competitiveness and innovation logics in any straightforward way, but arranges policy meanings selectively and attaches them to different parts of the fragmented political economy. It thus seems that concepts like Cerny's (1997) competition state or Jessop's (2002) Schumpeterian workfare post-national regime, while offering insightful analyses of overall trajectories of state-market relationships, partially obstruct the view on empirical fragmentations of the political economy and contradictions within them. Future research into the uneven application and effects of dominant projects like competitiveness across and within countries could contribute valuable knowledge in that respect.

This thesis' focus on *legal* labour admissions and *de jure* policy analysis can be castigated for obstructing the view on informal economies and 'irregular' practices. I have indeed ignored the ways in which statutory classifications of migrant workers are implemented, negotiated and resisted in practice, especially with regard to informal employment and residence. Yet, equipped with the Bourdieusian lens on symbolic power the findings of this thesis do not only capture what is inside the 'good' pots, to speak with Cinderella, but by default also observed who is classified as outside the desirable pots. By pinpointing the limits of legality designed and imposed through classifications and their meanings, I have exposed the ways in which labour admission policies legalise some elements of the wider labour geography while by default

illegalising and silencing others. The interpretation of formal labour admissions against the backdrop of empirical labour market realities for migrant workers as delineated in chapter 5 has problematised the neat distinction of formal and informal migration and presented this very classification as a powerful policy tool. As such the comparative and contextualised findings of this thesis represent precise empirical snapshots of current classificatory regimes in three big labour importing countries. As such, they offer a valuable analytical starting point for future research into implementation dynamics and contestation of legal classifications, as well as the implications of labour migration management for the experiences of different migrant groups – including informal workers and asylum seekers – in the host country.

This research exposed subtle national variations as to what competitiveness means in border-drawing and how it is enacted in labour migration governance. The German case adheres to VoC claims more than the other two: we observe a strong state role for ‘enabling’ facilitation and corporatist coordination of TCN labour recruitment, confirming Schmidt’s claims (2002b). Indeed, the facilitation of high-skilled entries mainly draws on a novel rights regime that mimics the role of social protection in a CME for high-skilled migrants in extension of claims by Estevez-Abe et al. (2001). Typically corporatist coordination of foreign labour recruitment is manifested in an ‘alliance for skilled workers’. The German case hence suggests that foreign labour recruitment is designed as another institutional complementarity in the paramount CME. From this perspective, the current blindness to labour migration as economic governance strategy duly needs to be overcome in VoC-inspired analyses (see Menz 2010a).

Yet, empirical findings also demonstrate VoC’s limits to account for labour migration border-drawing. We have seen that German admissions are also interpreted from ethno-cultural⁹⁹ hierarchies with European preferences. France might display elements of ‘state-enhanced capitalism’ in the coordination of highly-skilled labour recruitment with ‘emblematic’ work permits working in support of the ‘splendour’ of country and national market place. Yet, the strong conflation of economic and geopolitical admission principles by country of origin departs from VoC accounts. Equally, the current British restrictive approach with annual caps, in contrast to a more typical LME laissez-faire approach under New Labour, points to obvious limits of VoC to make labour migration policy intelligible. These empirical nuances demonstrate that social concerns, geopolitical selection logics, and electoral politics are mapped onto economic agendas in labour migration policies, even in an assumingly ‘market-driven’ economy like the UK.

⁹⁹ To remain fair to the original VoC research agenda it needs stressing that this thesis focused on state governance rather than firms’ strategies, even though Schmidt’s (2002) approach focused on the role of the state in supporting economic coordination patterns discursively.

In summary, while some aspects of comparative labour migration management can be explained from a VoC perspective, migration as labour reproductive strategy is heavily contextualised in socio-political environments. We can take findings as indication that compared to the domestic VET system the world of foreign labour recruitment entails much stronger moderation mechanisms of firms' economic demands through the state. British firms might indeed have more generic skill needs and are free to fulfil them from the domestic and EU labour pool – and their liberal approach towards A8 entries initially confirms LME logics. But the socio-political border-drawing mechanisms revealed in this thesis dictate limits to economic demand logics in TCN recruitment. This means that VoC in itself cannot be the sole source of comprehension for labour migration management. Instead, this thesis has shown that a focus on the interaction of capitalist production and labour reproduction strategies with other institutions – such as the welfare state and citizenship pathways – can provide a more comprehensive account.

9.2.2 *Border-Drawing and Welfare States: Linchpin or Poor Cousin?*

Several authors suggest that welfare states play a significant role in allocating and distributing social rights to migrant workers (Bommes and Geddes 2000b; Geddes 2000; Sainsbury 2006; Schierup, Hansen et al. 2006). Most of these studies concentrate on distributive effects ex-post initial immigration though and underplay the role of welfare states to structure migrants' rights ex-ante admission as well. I suggested that the welfare state does not just matter as social inclusion mechanism for migrants in the country, but equally serves as important normative reference point in the structuration of admissions (chapter 3). The analysis exposed how labour migration legislation, to variable degree, draws on the welfare state as a policy hub¹⁰⁰ for restrictive or liberal border-drawing mechanisms. The anticipation of migrants' access to social rights and their labour market success has proven to be a crucial ingredient of classifications. In this context, assumed regime-typical variations have proven relevant to some extent as well.

Germany serves as prime example of the Bismarckian welfare state working as a policy hub that is drawn on to structure labour migration admissions. The logics of 'earned' integration in the Bismarckian welfare state and the perceived genuine foreign labour demand are articulated as mutually reinforcing. Social integration via labour market participation is actively embraced, not

¹⁰⁰ I deepen the discussion about the welfare state as a policy hub in labour migration governance in a book chapter prepared for the WelMi/NordWel book series, with a specific focus on Bismarckian Germany and France (Paul forthcoming). I am grateful for the helpful comments I received from editors and other contributors at a book workshop at the University of Southern Denmark in Odense in October 2011.

least in departure from the 'false' belief that guest-workers would return to sending countries that dominated the post-War recruitment period. Equally, to satisfy high and specific skill needs the country offers highly beneficial settlement permits to an illustrious circle of migrant workers, therewith confirming the institutional complementarities between social system and labour reproduction in a CME (see 9.2.1). The German case hence highlights that labour migration regulation can anticipate social inclusion pathways and actively utilise them as recruitment incentive. Research so far tends to overlook these policy dynamics which deserve more detailed analytical attention.

The French classification regime, despite displaying a similar welfare state regime in theory, features significantly fewer references to a 'Bismarckian hub'. While we witnessed some allusions to 'earned integration' via labour market participation with regard to ex-post regularisation of *sans papiers* workers, other key themes dominate French policy discourse. The very absence of pressing labour demand demographically (chapter 5) fuelled the conclusion that French *immigration choisie* is less concerned with actual labour recruitment and more with post-colonial population management and renegotiation of the civic citizenship model. Eventually, whether the contribution-rights-equivalence logics of the Bismarckian welfare state are emphasised in labour admissions or whether the welfare state is a poor cousin in regulation seems to depend on the targets of labour migration policy. Where perceived labour demand is decisive, the mutually reinforcing principles of economic contribution and 'earned' social rights are pronounced in regulation and discourse (Germany). Where non-economic goals underpin large parts of the policy, the welfare state might function as contribution-based inclusion in the background, but has no role as linchpin at the forefront of labour migration governance and is silenced by other dominant themes such as post-colonial migration control (France). These marked comparative differences within a similar welfare state context re-emphasises the theoretical claim that states *selectively* draw on context and border-drawing sites in labour migration management, provoking variable outcomes and policy effects (see section 9.3.2). They also highlight the analytical relevance of the labour geographies into which labour migrants are being admitted for the comprehension of comparable similarities and differences.

In Britain, the welfare state merely surfaces as 'pressure' on public services in relation to high levels of A8-migration in Britain, not as debate of social rights or entitlements of TCN migrant workers. This might indicate that the logics of enforced (labour) market self-sufficiency and residual welfare in Liberal welfare regimes imply weak links between labour market participation and entitlements (Wilkinson and Craig 2011), with work incentives for migrants being higher than elsewhere (Koopmans 2010). Welfare seems to be no urging matter for discussion or regulation

in the UK (chapter 3). Yet, the concern over adverse effects of A8-migration on public services indicates that the tax-funding of benefits can trigger welfare chauvinist responses, just as chapter 3 suggested. Findings in Britain showed that in lack of restrictive policy options towards EU free movers, intra-European welfare and distribution concerns can provoke direct adverse effects on entry routes for TCN workers. This once more highlights the trade-offs between EU free movement and TCN labour migration from the perspective of the welfare state. It also exposes implicit ethnicised exclusions related to the preferential treatment of EU workers (section 9.4.1). In its interaction with the economic border-drawing dimension in particular, border-drawing on the site of the welfare state illuminates the political economy of welfare (and welfare reform) as integral part of the political ordering process in labour admission policies. The trade-off between labour migration and free movement calls for more research on these policy interdependencies, especially in times of economic recession and looming welfare state retrenchment.

9.2.3 *Border-Drawing and Citizenship: Towards 'Earned' Belonging and EU-Club?*

Citizenship regime literatures suggest that migrants' formal inclusion varies across countries, with chapter 3 discussing potential implications for politico-legal border-drawing. Theoretically, selection by ethnicity should matter more in ethnic citizenship regimes (Germany) than in civic regimes (France and the UK), yet the latter display some potential for selectivity by origin based on post-colonial links. Favell's (2001) integration regimes let us expect a focus on social cohesion and public order in the UK and assimilation in France. Based on historically emerged labour geographies I further hypothesised that states learned lessons from the 'unintended consequences' of guest-worker recruitment and anticipate social and politico-legal inclusion pathways in their initial recruitment decisions. I lastly ascribed a privileged role to EU free movers in foreign recruitment strategies, with adverse effects for TCN worker entry options.

Empirical findings elucidate that citizenship regimes matter in labour migration policy-making. Yet, the divergence of empirical cases from idealtypical assumptions indicates that citizenship pathways do not functionally impact policies as set-in-stone normative benchmarks. Rather, they are often being renegotiated through labour migration policy. For example, the lack of consideration for ethnic Germans in labour entries highlights the end of a traditional model; labour market inclusion requirements and 'normal' admission procedures also apply to ethnic Germans since the late 1990s and have started to layer the traditional ethnic inclusion domain (Kaiser and Paul 2011). At the same time, the privileging and de facto regularisation of semi-legal residents (*Geduldete*) who acquired domestic qualifications speaks of the increasing relevance of

'earned integration' models. Equally, French policy-makers interpreted '*immigration choisie*' as an attempt to detach the Republic from post-colonial ties. Civic citizenship and assimilationist integration pathways are increasingly articulated through economic utility logics. The normative framework of a Francophone political community of fellow citizens with post-colonial underpinnings is being actively revoked by the French labour migration approach with its multi-layered selection by origin and skill level and high levels of discretion in the delivery of admission policies. Lastly, the ignorance of special labour ties with former colonies in British regulation paired with the exclusive recruitment of EU free movers in non-graduate jobs is indicative of the early and ongoing downsizing of Empire (chapter 5). In the British case then, EU citizenship and economic selectivity in labour migration have seemingly outdated a previous post-colonial labour geography. Moreover, the British case indicates some resilience of citizenship and integration philosophies, as the perceived adverse effects of EU-migration have led to a typically multiculturalist control backlash in the context of the 2010 elections which juxtaposes state-supported laissez-fairism and further curbs legal labour migration options.

Overall, findings confirm accounts which highlight the intersectionality of conventional citizenship and integration regimes with the economic rationalities of capitalist states (Carmel, Cerami et al. 2011; Jordan and Düvell 2003; Schierup, Hansen et al. 2006). The widely discussed trajectory of 'earned' citizenship and economic belonging is substantiated in this thesis. But at the same time, findings have demonstrated that economic utility claims are only accepted to be legitimate for high-skilled and skilled segments of the economy as part of imaginaries 1 and 2. Lower skilled migrants, often informal residents and workers in the host country already, are not included in the otherwise heralded inclusion pathway of 'earning' integration and citizenship rights via economic contribution. The focus on specifically high skill levels and some shortage professions and simultaneous restriction of lower-skilled routes in policy empirically co-exists with informal economies demanding and employing large shares of migrant workers. This mismatch produces highly stratified 'earned' integration pathways, with labour migration policy in the countries studied here strictly dividing between TCN migrant groups who can and shall earn their rights economically and those who are cut-off from access to economically-derived social and political rights. I hence argue that the allusions implied in 'earned' integration and citizenship models, as rhetorically promoted by governments, are highly deceitful. They silence the fact that a number of migrant workers are actively kept at the margins of formal labour, residence and most social rights through restrictive labour migration policy (Anderson 2010; Morice and Potot 2010; Wilkinson and Craig 2011). The analytical anchor provided by a profiling of countries' labour geographies in chapter 5 highlighted the empirical relevance of asylum seekers, post-

colonial residents and informal workers (often as conflated categories), and has helped exposing the ways in which labour migration policies manages their rights even where not mentioned explicitly. In future research, and with the view of expanding the analysis to other countries, a closer scrutiny of fragmentations within the cultural political economy of labour migration and their implications for 'earned' citizenship trajectories could illuminate uneven policy effects with regard to inclusion and exclusion patterns for different categories of migrants.

Lastly, the assumed vast EU-internal labour supply for lower-skilled jobs suspends legal entry options for TCNs. In terms of research implications, firstly, the notion of a privileged EU club of workers shapes a shared regulatory backdrop for labour migration governance. Labour migration policy analyses which concentrate on TCN entries exclusively without taking account of the regulatory impact of EU free movement can therefore only be partial, as the strong interaction of 'adverse effects' of A8-entries and TCN admission restrictions in Britain indicates. Secondly, the role of EU free movement in the re-negotiation of traditional citizenship models and special relationships with sending countries is underexplored. Intra-EU mobility imperatives have the potential to change traditional labour geographies, as we particularly witness in relation to post-colonial inflows in France and Britain. Thirdly, both the British control backlash after large European inflows and the French politicisation of different shortage lists for TCN and EU workers also problematise the notion of an 'EU club' of workers which overlooks contestation around EU citizenship. German policy-makers' endorsement of Europe as unfinished project seems more topical then ever in the current Eurozone crisis and protectionist backlashes within Schengenland. As this thesis focused on TCN labour migration and treated EU free movement merely as a structuring policy context, it fails to unpick empirical nuances, contestations and theories of EU citizenship in practice¹⁰¹. Findings, lastly, start highlighting the uneven impact of EU policies on member states' labour migration regimes. Countries exploit EU free movement selectively – and hence variably – to draw borders in TCN labour admissions. Future research should elaborate this perspective further and scrutinise the extent to which theories of 'venue-shopping' (Guiraudon 2000), for instance, are adequate to account for member states' strategic contextualisation of TCN labour migration in EU regulations, and with what consequences for EU policy-making and the European labour geography (section 9.4.1).

¹⁰¹ To explore these issues further, I organise and present in a panel entitled "EU free movement mid-crisis and post-Lisbon: What scope for a rights-based European labour geography?" at the *Council for European Studies* annual conference in Boston in March 2012, together with Emma Carmel.

9.2.4 Scope and Limits of Multidimensional Migration Policy Analyses

The previous discussion points in this section bear theoretical and methodological implications for future research. Findings jointly demonstrate that neither in theory nor in practice do the logics and normative scripts of different border-drawing institutions coincide easily: German policy-makers emphasise 'earned integration' and have thereby overridden the impediments of an ethnic belonging mode; French labour migration is articulated as renegotiation and economisation of the civic citizenship and political integration model, with a specific focus on post-colonial downsizing; the UK oscillates somewhat uncomfortably between an economic LME ideal type and a counteracting 'tough control' integration approach.

My findings point to the limited capacity of any one literature segment – varieties of capitalism, welfare regimes or citizenship models – to fully account for empirical border-drawing dynamics. They take issue with mere economic push-and-pull accounts of labour migration processes in some part of the migration control literature. Findings highlight the strong impact of statutory moderation which attribute a prominent role to social and politico-legal border-drawing dynamics. Indeed, the state's powerful role in arranging different agendas – also non-economic – by combining border-drawing dimensions and norms in a specific way is a key finding. Had the present analysis concentrated on economic border-drawing only, the impression of a largely shared distinction of entry routes according to three underpinning economic imaginaries of labour migration would have prevailed without clarification. We would have remained blind to the highly variable socio-political border-drawing mechanisms in the three countries and underestimated their strong moderation effects for economic border-drawing. The analysis would have misinterpreted commonalities as sheer dominance of economic logics and thereby overlooked considerable room for manoeuvre legislators possess and seize to contextualise economic rationalities in socio-political agendas and specific empirical labour geographies. This thesis' findings hence strongly expose the analytical value of a multidimensional approach which scrutinises economic, social and politico-formal dimensions of border-drawing in their interaction and analyses their variable configuration. This nuanced insight would not have been possible without the fine-grained legal mapping of labour admission regulation (documents) and access to leading policy-makers' interpretation of this legal architecture (interviews).

Methodologically, the use of ideal types as analytical benchmarks proved indispensable in exploring interaction dynamics in multidimensional border-drawing regimes (section 4.3). The innovative application of Weberian ideal types in this thesis – not as encompassing analytical

constructs which capture an empirical phenomenon entirely, but as analytical segments to shed light on relevant dimensions and their interplay in a bigger configuration – proved sensitive to nationally distinct policy arrangements. Informed by regime theory, the *comparative method of idealtypical contrasting* applied in this thesis exposed:

- countries' selective prioritisation of some normative scripts and silencing or out-phasing of others (e.g. demographic need scenario amplifies economic utility logics and social integration via work in Germany and silences previous citizenship model),
- continuing and unresolved contradictions between normative scripts (e.g. economic liberalism vs. control and pressure on public services in Britain),
- and the process of active rewriting of specific normative scripts through labour migration policy (e.g. French citizenship model revoked by economically selective labour migration, British multiculturalist control philosophy currently overwriting liberal economic recruitment approach).

This method of comparison hence proved particularly well suited to carry out a configurational policy analysis, and I suggest it could be applied more generally in future research. It helped exposing both similarities and differences in the logics and normative frameworks of border-drawing in labour migration governance, established overall classification regime dynamics, and shed light on their emergence in a specific policy context. The idealtypical comparative method offers enough conceptual flexibility and analytical span to capture a range of different meanings vested in policies.

There are, of course, considerable limits to the configurational analysis carried out here. The most relevant is certainly its lack to capture changes over time. The concentration on a snapshot of current legislation was founded in the aim to identify border-drawing principles and understand interactions of border-drawing institutions in comparative perspective in an only recently re-emerging policy area. With continuous changes to legislation – and not least in the wake of a lasting and unsettling economic crisis – shifts within border-drawing regimes will have to be assessed by the help of longer wave studies. Moreover, the need to concentrate on a smaller number of cases in this study does only allow cautious assessments about the scope of the shared realm of economic border-drawing with distinct socio-political contextualisations in Europe. A medium-n contextualised comparison would have to elaborate trajectories across more cases. Lastly, the interdependence of welfare states, citizenship regimes and economies in border-drawing regimes demonstrates the limits of regime theory to analytically detach empirically interacting border-drawing sites from the other. Yet, this thesis showed that a multidimensional analytical approach which studies border-drawing dimensions in their own right as well as in their

interaction is most suitable to account for the empirical interdependencies in the policy field, hence capturing labour migration management and its meanings in a more encompassing way.

9.3 Consolidating the Border-Drawing Concept: Towards a Research Agenda

After the previous section appraised empirical contributions and highlighted the need to study migration policy as multidimensional border-drawing, this section re-appraises the theoretical heart of the thesis and assesses its potential to inform a future research agenda. I argue that the application of the border-drawing concept proved useful in exposing and substantiating the powerful role of the state in allocating differential statuses and rights to migrant workers by means of their legal classification (chapter 2). With the thesis' analysis having added empirical substance to that position, this section reflects on what the border-drawing concept contributes to migration policy analysis, and policy analysis more generally. I equally acknowledge limitations of this specific conceptualisation of migration policy. I propose three main theoretical implications of the border-drawing perspective, to be elaborated in this section:

- border-drawing is a powerful semiotic structuration process,
- border-drawing entails strategic contextualisations of policies,
- border-drawing is a highly political and dynamic process.

9.3.1 *Border-Drawing as Semiotic Structuration*

Taking on board a Jessopian (2009) argument, chapter 2 defined border-drawing as powerful semiotic structuration process in which states manage migration complexity by means of legal classification. The notion of structuration as complexity reduction is inherent in classifications, as the reflections on Baumanian order-design in chapter 2 highlighted. To derive order and structure in a complex social world is the very purpose of classifications. The empirical reflections in the previous subsection shed light on both the complexity of migration as a field for governance and the powerful structuration mechanisms entailed in labour migration border-drawing. The specific focus on policy-making as semiotic structuration process put forward in this thesis exposed crucial elements of state work in managing a complex empirical terrain.

We have seen that states define legitimate entry routes and rights regimes for migrant workers in highly fine-tuned ways: legislation draws on a range of different normative frameworks and develops a highly differential and selective classification regime which combines admission

criteria, policy tools, and permits in multiple ways. Tensions between co-existing and competing normative reference systems in migration policy – e.g. economic growth, security and anti-terrorism, social cohesion, domestic welfare, justice and democratic legitimacy – have been described at length (Boswell 2007; Carmel and Paul 2010; Hollifield 2004a). Labour migration policy amply reflects contradictions between global competitiveness and economic openness goals on the one hand, and domestic labour market, welfare and citizenship governance objectives on the other. In the found interactions of economic border-drawing with social and politico-legal normative frameworks we observe the prevailing relevance of welfare and social integration concerns or perceptions of political belonging in migration policy. For instance, high skills and scarce skills are courted in all three countries and linked to assumptions about their economic utility and promotion of competitiveness. Yet, if you happen to be Senegalese in France, your nuclear technology doctorate might not be sufficient for admission, as a bilateral agreement limits Senegalese entry numbers. If you are unfortunate enough to be the 20,701st applicant in Tier 2 general of the British PBS; your specific engineering skills might match the shortage route profile description, yet your application will be in vain with the annual cap having already been met. The analysis has exposed the multiplicity of labour migration classifications, 'legitimate' entry definitions and associated statuses and rights for migrant workers.

Yet, the analysis has further indicated that the product of multidimensional and highly fine-tuned governance is by no means chaotic or radically contingent as some scholars would suggest (Bevir and Rhodes 2010). In a complex empirical field with various co-existing and contradictory agendas and policy drivers, multidimensional semiotic *structuration* offers a crucial remedy for governance. The Baumanian notion of purposefully 'designing' order in a complex world (chapter 2) has been empirically substantiated with the thesis' analysis of labour migration management. Indeed, findings expose powerful constructions of 'structured complexity' (Jessop 2009) in border-drawing processes. Whilst the large array of sometimes contradictory normative underpinnings can be read from the highly differential and poly-centric labour migration policies in Germany, France and the UK, these normative references are being contained in very specific places, combined in specific ways, or silenced for the sake of competing agendas in respective legislations. The selective arrangement of policies across border-drawing dimensions and sites and across a multiplicity of normative reference points has exposed that border-drawing processes are neither fully contingent nor infinitely specific or random. To the contrary, on the basis of empirical insights gained in this thesis, I contend that complexity is highly structured, channelled, and contained in border-drawing processes.

As an empirical example of 'structured complexity', let me evoke the economic imaginaries of labour migration surfacing in policy interpretations (chapter 7). The semiotic division of the cultural political economy into three distinct economic imaginaries – all with very different focuses – structures labour admission policies in a way that allows governments to pursue contradictory objectives and reconcile otherwise conflicting agendas. Through the very division of entry channels by skill level in three imagined economies, a neo-liberal competitiveness agenda can, for instance, co-exist with domestic labour market protectionism. In the combination of skill level demands with country of origin or annual caps, policy-makers and legislation demarcate differential spaces for legitimate foreign labour recruitment according to a range of different economic, social, and political objectives. We have seen that the semiotic division of the political economy into three imaginaries informs a strict legal division of entry routes and hence restricts entry options for migrant workers. The analysis has hence also evidenced the stark *material effects* of semiotic structuration processes which both a Bourdieusian stance and CPE would predict (chapter 2.3). Rather than remaining on the level of discursive construals of the social world, border-drawing has proven to be a far-reaching undertaking of semiotic *structuration*.

What this thesis contributes, eventually, is an empirical and comparative snapshot of the powerful processes by which states attempt to manage a complex empirical terrain such as migration. From this thesis' findings semiotic structurations entailed in border-drawing offer crucial governance tools: labour migration management offers a remedy for seemingly contradictory policy agendas and normative frameworks (chapter 1) precisely because it entails and imposes powerful divisions and structurations of a complex social world. This suggests that policy analyses ignoring the creation and imposition of 'structured complexity' through selective meaning-making – whether in the field of migration or beyond – overlook one of the most far-reaching contemporary instances of state power, misrecognise its normative and political character, and downplay the political ordering effects of governance processes. By synthesising a Bourdieusian classification angle with critical governance approaches and CPE, this thesis has offered an analytical approach which exposes the normative substance and political dynamics of semiotic structuration processes in policy-making. I suggest that this approach could be gainfully applied in other empirical fields as well.

9.3.2 *Border-Drawing as Strategic Contextualisation*

The core theoretical claim of the thesis has it that semiotic structurations enacted through border-drawing are empirical testimonials of powerful state activity in migration policy. Theoretical reflections in chapter 2 highlighted the structural embeddedness and connectivity of semiosis and emphasised the potential for structural lock-ins and path dependencies of policy-making. At the same time, both Bourdieu and CPE scholars have also acknowledged the creation and constitution of new meanings, social formations and relationships in policy-making. Based on my empirical findings, I suggest that the simultaneity of structural embeddedness and constitutive power of border-drawing can be best captured with the analytical notion of *strategic contextualisation*. In labour migration management, state policies seem highly structured by their context but at the same time have exemplified considerable room for manoeuvre in selecting and imposing specific ways in which this context should matter, be ignored or even silenced.

EU free movement serves as a prime illustration of strategic contextualisation in labour migration management. As my analysis revealed, the regulatory framework on intra-EU mobility creates a shared labour geographical context for German, French and British labour migration policies. This context proved highly important as structuring factor across all cases with the notion of abundant EU labour supply crowding out the perceived need of lower-skilled TCN labour migrants in the associated economic imaginary (chapter 7.3). The use of EU labour mobility for filling labour shortages has also triggered a re-shaping of historical labour migration geographies, especially with regard to former colonial labour supply in France and the UK. Seen from this perspective, EU free movement and the privileged status of EU citizens over non-EU migrants suggests a structural determination of policies to some extent.

Yet, the selective use of EU free movement references as justification of restrictive TCN admission policies only in the low-skilled realm, but certainly not for high-skilled workers, demonstrates room for strategic governance. Nationally variable framings of EU free movement expose that countries actively negotiate the EU policy context in border-drawing. They do so in relation to their individual labour geography and the attempt to manage it through labour admission policies. Chapter 8 exposed German policy-makers' preoccupation with furthering the European project via labour market integration, the French strategic use of the A2 shortage list to restrict rights of post-colonial informal workers, and the British concern over adverse effects of New Labour's liberal A8-migration approach which, in lack of control over EU flows, triggered far-reaching restrictions for TCNs. These examples highlight that EU free movement is no static policy context which uni-directionally shapes labour migration policy; rather, policies are

strategically contextualised in the framework of EU free movement to fulfil specific functions, respond to specific migration experiences, and negotiate a wider policy environment.

A German example is the profound contextualisation of labour recruitment in the demographic decline scenario, which allocates specific functions to the welfare state and traditional citizenship regime as border-drawing sites. The former is stylised as veritable linchpin to enforce selective recruitment (Paul forthcoming) while ethnic selection principles are muted by economic utility claims. The German classification regime must be understood in relation to its specific contextualisation: with demographic change being perceived as a severe pressure, reinforcing dynamics between work and welfare are being amplified in policy-making and citizenship norms are being simultaneously reshaped. Another example is the renegotiation of post-colonial citizenship and denizenship in French 'immigration choisie'. Chapter 8 highlighted that by contextualising family reunion and settlement rights in an economically-driven admissions policy, the rights of migrants whose status do not build on their economic utility are being revoked, at least symbolically. Sheer ignorance of specific empirical contexts can equally matter: in all cases, the looming disregard of parts of the labour geography (i.e. less skilled asylum seekers, post-colonial informal workers, gangmaster victims) represents a *strategic non-contextualisation* which arguably de-legitimises their role in the labour geography.

Following these reflections, I argue that context has to be understood and scrutinised not just as an external structuring factor but as integral part of strategic governance processes in policy analysis. By offering in-depth case profiles as interpretive anchors (chapter 5), I was able to demonstrate that labour migration management involves political (re-)ordering processes of, for example, post-colonial relationships (France and the UK), asylum seekers' labour market position (*Geduldete* in Germany) and EU labour mobility (all cases) which go beyond urgent economic needs for labour recruitment. The focus on specific contextual factors and negation of others, the emphasis of some aspects of the wider labour geography but ignorance of others, helps explaining the emergence of nationally variable border-drawing regimes.

Interpretive methods have been crucial in identifying interactions between context and border-drawing, as they exposed policy-makers' contextualisations of legal classifications and perceived interactions between different norms. The strategic use and negotiation of context found in this thesis attributes a crucial role to contextualisation dynamics in governance processes (chapter 2): it is in order to respond to and negotiate specific contexts – EU free movement, demographic change or post-colonial labour ties – and gel them into other policy agendas – say economic growth or response to labour shortages – that admission policies are being selectively arranged in a specific way. The treatment of shared and different contexts is

part of an explanatory account of comparative similarities and differences in labour migration management. More generally, the dynamics between context and strategic governance thus deserve more analytical and theoretical attention in policy research.

9.3.3 *Border-Drawing as Political and Dynamic Process*

The emphasis of strategic contextualisations in border-drawing processes reveals their highly political and dynamic character, bearing theoretical implication for policy analysis. The thesis contended that no classification is innocent; any one selection criterion in labour admission policy draws on a whole range of normative assumptions – implicit and explicit – about economic and socio-political orders. The multidimensional analysis of border-drawing across the economic, social and politico-legal dimension has shown that borders to legal labour migration are being shaped by a multitude and national variety of different agendas and normative references. The interpretive focus has enabled the thesis to expose the various normative underpinnings of policy-making, which less critical policy analyses often ignore.

For example, demanding a postgraduate qualification for access to a beneficial permit is no technocratic and somewhat self-evident classification by skill level, but it bears specific ideational references as to the utility and desirability of a migrant worker with this particular skills profile in economy and society more generally. I take issue with migration policy analyses that seemingly assume the focus on high-skilled migration to be a given factor without unpicking its normative assumptions as deeply political, arbitrary and contestable (Cerna 2009; Zaletel 2006). At the same time, some labour migration literature tends to be blind towards non-economic drivers of recruitment policies (Menz 2010a; Menz and Caviedes 2010b). The assumption that economic demands and ‘responses’ in labour migration policy design are functionally linked has been exposed as highly inappropriate in this thesis. Beyond misrecognising the highly normative character of the capitalist norms of competitiveness and innovation which surround reactivated recruitment policies, these studies further downplay the strong social and political contextualisation of economic agendas in labour admission legislation.

In opposition to functionalist policy analyses, the findings of this thesis demonstrate that political and economic strategies do not feed into one another in labour migration policy. Empirical examples include the conflation of economic utility logics with a discrimination of workers by post-colonial origin in France, the use of annual caps in Britain in order to appease public opinion, or German exclusive shortage recruitment from Croatia for some skilled jobs. Another example is the common silencing of economic utility and ‘earned’ integration claims in

the lower-skilled segments of the economy. These classification dynamics stress the political moderation of economic border-drawing mechanisms; indeed to a point where in some cases, mainly France, non-economic rationales such as reducing post-colonial family reunion seem to direct the labour migration agenda. The social regulation and political ordering of markets seems to be well alive in the field of labour migration policy.

The critical governance perspective and CPE lens applied here has helped tracing the normative judgements and political ordering involved in border-drawing. The thesis' empirical analysis demonstrated that classifications entail choices about the norms that should guide divisions and thus impose a distinctly *political ordering* of social relations. CPE's terminology of *selection* and *prioritisation* of some aspects of the wider social world in meaning-making processes has helped exposing this political character of labour migration management and made it accessible analytically. As all policy-making involves normative assumptions, I suggest that other fields can be studied with a similar approach. Unpicking the norms which guide definitions of and policies for legitimate pensioners, welfare recipients, refugees, voters and so on promises equally interesting comparative insights.

If border-drawing is a political ordering process, the emerging classification regimes imply room for contestation and changes over time. Due to its multiple references to a complex social world with several coexisting – and partly competing – normative frameworks, labour migration border-drawing inevitably produces dynamic categories of 'legality' for migrant workers. Normative frameworks change over time or policies re-arrange them in novel ways with changing priorities. A potent example of dynamic classifications emerged in the British case with a policy amendment erasing, among others, meat-cutting and lower-skilled nursing from the TCN shortage list (chapters 6 and 7). Literally overnight these jobs are no longer considered part of the skilled national labour shortage imaginary but have been shifted into the lower-skilled EU labour self-sufficiency imaginary. Whilst the normative reference of economic utility as such did not change in this case, the contextualisation of labour migration policy in electoral politics of symbolic control drove the introduction of annual caps and reduced shortage lists.

Complexity is never conquered once and for all in 'order design' and political ordering processes such as border-drawing, but it is being constantly (re-)structured to render a field manageable and governable according to changing contexts and policy aims. This view weds the thesis to a paradigm according to which social science "benefits not from ever-advancing abstraction and generalisation, but on the contrary, from fitting its theoretical template to the historical specificity of whatever society it is dealing with." (Streeck 2010). Jessops' (2002, 2008) notion of 'spatio-temporal fixes' in social and economic formations equally highlights the instability

and dynamism of policy arrangements. Having conducted a synchronous comparison of an only recently re-emerged policy area, changes in border-drawing mechanisms over time have not been analysed in this thesis. It is only due to the co-occurrence of British fieldwork with significant policy amendments after the 2010 government change that dynamics of change have been captured in this case. This work being limited to a nuanced comparative snapshot of labour migrant classifications, their normative underpinnings and interaction dynamics, it has to be the task of future research to address bigger waves and change dynamics over time. For instance, while the current economic crisis did not figure relevant in interviewees' accounts of policies in this study, the potential for further restrictive effects for non-EU migrant workers' legal entry options cannot be denied. The strong rhetorical and regulatory embedding of skilled and lower-skilled labour shortages within the EU labour geography might be amplified by the crisis and further fuel the bifurcation between EU and non-EU workers' statuses and rights. Longer wave research seems particularly promising to trace and analyse such longer cycles of labour migration and its meanings.

Lastly, due to the *de jure* character of this thesis' policy analysis – focusing on a preliminary 'end product' of political processes to unpick it in depth – I did not capture *de facto* contestations and negotiations of legal classification regimes *ex-ante* or *ex-post* their coming into force. Existing research amply indicates that employers, political parties, trade unions, courts, NGOs and so on play their part in designing, negotiating, changing, and resisting legislation (e.g. Guiraudon 2003; Joppke 1998b; Menz 2009). The rational choice and neo-institutionalist migration control accounts (chapter 2) have equally highlighted the influence of business and human rights agendas on policy-making. The thesis' findings serve as analytical starting points for research on actors' struggles over meanings and political orders that, according to my data, statutory labour migration legislation aims to impose.

9.4 Considering Border-Drawing Effects: Policy Implications

Findings have policy-related implications to be addressed in this last section. The comparative focus on a specific geographical, economic and political area (the EU) makes findings highly relevant for wider policy trajectories in this region. I will briefly assess the *scope for a shared EU labour geography*. The border-drawing principles found across cases further inform a discussion of *rights regimes and right trade-offs* for migrant workers. Lastly, we have observed *instances of implicit governance* of targets other than labour migrants such as other migrant groups, residents, employers, voters or the domestic unemployed in labour migration management.

9.4.1 *European Integration and a Common Labour Geography*

The comparative findings of this thesis provide grounds for speculating about the options for further integrating labour migration across the EU, as well as for appraising the scope for an encompassing European labour geography.

As to the first issue, I argued that the variable uses of EU free movement indicate a strategic and nationally distinct contextualisation of labour admissions in the regulatory framework of EU-internal labour mobility. Based on my findings, I hence agree with accounts stating that member states have and make use of their room for negotiating EU market-making policies such as free movement according to national policy goals (Menz 2005). However, this research has also revealed considerable shared grounds in the economic border-drawing dimension which makes a common EU market-making approach and its contextualisation in post-Fordist growth strategies seem influential (chapter 1). A shared belief in the norms of the competition state, innovation, and knowledge-based economies – as promoted by the EU's Lisbon agenda – dominates the treatment of high-skilled workers in all three cases. National policy-making therewith dovetails discourses surrounding the European Blue Card for highly-skilled workers and explains why an early agreement on this regulation was possible while the Directives for intra-corporate transfers and seasonal workers have been negotiated much longer. It is especially interesting to observe that even though the UK opts out of most EU Directives on migration, most of its economy-related labour migration regime looks quite similar to more Euro-centric Germany and France. With hindsight to the most recent British veto against concerted economic and financial policies in Brussels in December 2011, some of these shared beliefs seem under pressure, requiring an empirical follow-up study which takes the current economic and political crisis of the EU into account more centre-staged than I could here.

Irrespective of largely shared beliefs around high-skilled migration, my findings pinpoint obstacles to a wider harmonisation of policies across member states beyond the crisis scenario. This concerns both the departure from competitiveness norms for lower-skilled workers, and the wide-spread conflation of economic utility logics with further societal and political concerns in nationally distinctive ways. The nationally specific moderations of economic imaginaries in the social and politico-legal dimension of border-drawing stress the continuing divergence of underpinning normative frameworks and policy agendas. Whether we find 'Europeanisation' or 'integration' of policies across member states seems to be a question of depth and focus of analysis. A broad brush approach might find shared economic utility logics dovetailing wider EU economic governance targets, but the in-depth interpretive policy analysis offered here highlights nuances within these logics and their variable moderations in the national socio-political context.

Overall, this thesis also illustrates that, viewed from a meso-level comparative angle; policy convergence and divergence in the EU co-exist in any one policy.

With respect to a wider European labour geography, findings allude to several dynamics. There is a strong sense of distinguishing between 'us' EU-nationals and 'them' TCNs, especially in relation to the lower-skilled segments of the labour market which offer virtually no entry options for migrants from third countries. This creates a profound notion of 'EU club' of workers in a shared labour geography (section 9.2.2). In the case of Germany, the long-established sense of a distinctly European labour geography is extended to entail accession candidates (i.e. Croatia) or those perceived to be on the way of becoming one (e.g. Ukraine). The common strong rhetorical and regulatory embedding of skilled and lower-skilled labour shortages within the EU labour geography might be amplified by the current economic crisis. This might further fuel the bifurcation between EU and non-EU workers' statuses and rights in which TCN migrant workers are not necessarily kept outside physically, as the image of 'fortress Europe' suggests, but are often doomed to illegal, marginalised and exploitable positions (cf Anderson 2010; Hansen 2010).

Yet, the embeddedness of labour admissions in distinct labour geographies (chapter 5) has showcased that 'TCN worker' is no homogeneous category. The empirical implications of the TCN-EU rights bifurcation vary. While French admissions strongly relate to post-colonial residents from Algeria, Morocco, Tunisia or Senegal, Britain 'deals with' Pakistanis and Indians and Germany with settled Turkish people, for example. Who counts as a migrant and is targeted with inclusion and exclusion mechanisms depends on the labour geographical context into which TCN workers are admitted. These empirical nuances continue to make a comparative difference and re-emphasise the value of a firmly contextualised analysis of labour migration management.

At the same time, the bifurcation of EU vs. TCN workers is contested from the inside. The discussion of perceived adverse effects of A8-migration on the public infrastructure in Britain, and the continuous perception of EU free movers as 'migrants' also elsewhere, alludes to the limits of an encompassing EU citizenship approach that goes anyway beyond a perception of Poles or Lithuanians as cheap labour. Continuous struggles about mobility and social rights attached EU citizenship (Favell and R. Hansen 2002; Hansen and Hager 2010; Recchi and Triandafyllidou 2010) raise worries that the emerging EU labour geography is not just strictly bifurcating rights of EU free movers versus TCN workers, but that even the preferential treatment of EU free movers as labourers stops at the margins of national societies, welfare states and electorates.

9.4.2 *Rights Regimes and Rights Trade-Offs*

The key conceptual premise of this thesis contended that classifications of migrant workers into variable positions of legality significantly stratify their statuses in host countries, and represent instances of powerful state activity (chapter 2). The empirical scrutiny of these classifications and their meanings in Germany, France and Britain helped substantiating this claim, pinpointing wider patterns in the ascription of 'legality', and discussing policy implications in terms of migrant rights.

The strict division of entry channels by skill level and the associated different sets of rights indicate a close correlation between skills and rights which governs migrants' opportunities and experiences. In a nutshell, the higher or more specialised the formal qualification of a given migrant worker is the more benevolent are the entry routes and rights in the host country. While this relationship does certainly not govern every individual applicant and is mitigated in bilateral agreements with quotas or through an annual cap for instance – the common tendency of linking skill level and rights is overwhelming in all three cases. This fine-grained targeting of high and specific (sometimes sector-specific) skills represents a stark departure from the guest-worker period in Europe with its focus on recruiting unskilled cheap 'manpower', confirming recent studies (Caviedes 2010; Menz and Caviedes 2010a). It ascribes a role of globally mobile skills entrepreneurs to 'legitimate' migrant workers and offers benevolent rights – such as the German settlement permit – to them. Yet, whoever does not live up to these skill-entrepreneurial expectations faces much more restrictive and temporary access options and a more limited sets of rights. A larger scale study in 46 middle and high-income countries confirms the trade-off between skills, openness in admission policies, and rights granted as a more encompassing tendency in labour migration policy worldwide (Ruhs 2011).

The construction of legitimate migrant workers as skills entrepreneurs in labour admission policies has racial and ethnic implications, some quite explicit and some more indirect. We find instances of explicit discrimination of non-European workers. This is the case in Germany where decreasing skill level implies increasing selectivity of workers by (largely European) country of origin in bilaterally agreed shortage lists and cements a long-standing preference of (white) European labour. The same applies to France's numerical and temporal restriction of entries from former colonies which are developing countries. Apart from these relatively open discriminations, the focus on high-skilled and specifically skilled labour recruitment also bears indirect disadvantages for migrant workers from poorer countries in the global South. Recall the cynical comment of a French policy adviser that the shortage list policy – offering high-skilled engineering positions to Malians for instance – leads ad absurdum an informal labour market reality of Malian kitchen assistants and cleaners. Sorting effects of replacing post-colonial

workers with EU free movers in lower-skilled segments of the labour market also surfaced in the British case (all chapter 8). The rights-perspective stresses that labour migration management is no mere economic coordination strategy supporting growth, but it fulfils socio-political agendas and ordering processes, too. My empirical work hence supports those highlighting the conflation of neo-liberal economic agendas and ethno-cultural definitions of belonging in European migration and citizenship policy (Hansen 2000; 2010; Hansen and Hager 2010).

This study's macro-level focus on the legal architecture and meanings attached to labour admissions by policy-makers overlooked the more nuanced meso- and micro-level allocation effects of policy-making. While I offered a critical policy analysis to expose comparative meanings of labour migration management, more conventional sociological research scrutinises its more concrete implications for migrants of specific origins, ethnicities, genders and so on (e.g. Andall 2000; Calavita 2005; Morissens and Sainsbury 2005).

9.4.3 *Multiple and Implicit Governance Targets*

Even though I concentrated on the regulation of TCN workers' admissions, findings reveal a range of other targets of policy-making. The question 'who is being governed' can in none of my cases simply be answered with 'TCN migrant workers'. Findings indicate that others target groups – e.g. employers and their recruitment and training strategies, the domestic unemployed, voters, and other migrants including those on the verge of becoming citizens, – are directly affected by labour migration policy. In some cases they appear to be primary targets of policy-making.

In all three cases, recruitment 'demand' in the skilled shortage imaginary concentrates on domestic supply and activation goals (chapter 7.2). The German *Fachkräfteallianz*, or the British proposal of tying allocation of sponsorship certificates to companies' domestic training efforts underline this point. The domestic workforce is inherently being co-governed in labour migration policy: all labour market shortages that legislation defines as *not* legitimately to be filled with a TCN worker are immanently drawn into national employment and activation agendas. Domestic skills and employment strategies have indeed been discussed, by some interviewees, as two sides of the same coin. Whilst the interaction dynamics between labour migration and national employment policies only emerges as a by-product of this thesis, an analysis across all relevant policy fields could add valuable knowledge as to the broader dynamics, trade-offs and rights regimes entailed in the governance of workers, labour markets, and economies.

Findings moreover suggest that who is being targeted in labour migration policy varies greatly alongside nationally variable classification regimes. For example, the demographic

shrinking situation in Germany supposedly makes TCN workers a genuine target of recruitment policies in a technocratic manner. By contrast, the French preoccupation with managing post-colonial populations and a simultaneous lack of a demographic 'demand' for workforce has led to the conclusion that 'immigration choisie' is, at least partly, targeted at residents and family members. By selecting the desirable economically, policies inherently deselect those regarded as undesirable. In the British case, sponsorship certificates have been interpreted as tools controlling employers' use of migrant workers. Moreover, the strong engagement with perceived electoral demands as to the effects of high inflows of migrant workers suggests that voters might be another target of labour migration management (Anderson and Ryan 2011).

These brief reflections give a flavour of the interdependencies that 'structured complexity' entails for actual subjects of policy-making in my empirical area, but also more generally. Policies on migrant workers immanently affect domestic workers and vice versa, electoral politics interacts with migration policy, a liberal EU free movement approach interacts with migrant entry channels and so on. While it is useful to distinguish different areas of migration and integration policy analytically, their empirical intermeshing needs to be considered to expose wider political ordering effects. I hence contend that narrow policy field analyses, as often entailed in evidence-based approaches, miss vital and analytically fascinating parts of the empirical picture. By focusing on a single policy area, or even a single policy intervention, a notional singular target group without any grasp of neighbouring policies, phenomena and targets, these analyses underestimate and fail to analytically capture the political ordering of a wider social world in governance processes.

The advantage of the critical governance perspective taken in this thesis then, I argue, is its ability to expose policy interdependencies, multiple normative embeddings, political ordering processes and structuring effects of policies in a wider social world. Rather than denying or shutting out the complexity of the empirical social world and the array of potential normative choices about the ways in which this world should be ordered, policy analysts can expose and make intelligible the constant political ordering attempts that characterise policy-making. It is my normative conviction that it is through understanding and articulating empirical complexities, interdependencies, and shifting normative foundations of policy-making – rather than presenting it as a technocratic and self-evident process – that democratically underpinned, legitimised and adequately nuanced policies can be developed.

Appendices

Table A1: Topic Guide for Interviews with Policy-Makers (UK example)

<p><u>Main research question:</u> How do selected EU countries manage labour migration through legislation and how can policy similarities and differences be understood in comparative perspective?</p> <p><u>Umbrella interview questions:</u></p>
Introduction and general assessment:
According to you, what are main rationales of labour migration policy in the UK?
What do you perceive as main strengths and weaknesses of the current British labour migration regime?
How would you define your role in the field of labour migration management?
Specific policy context:
To which frameworks of reference do policy rationales relate (<i>economic, labour market oriented, welfare state related etc.</i>) and how? How, concretely, do these considerations affect and shape policies and policy tools?
How do definitions of labour demand in occupational groups and sectors, skills and qualifications, and annual caps for labour migration match your (institution's) vision of labour recruitment? What would you change and why?
Which tensions and trade-offs do you observe within the labour migration agenda? How are they being dealt with?
Are there any aspects in relation to labour migration policy that are currently being neglected or hard to feed into the political agenda? Which are they and why do you think they are missing/hard to feed into the legislative process?
Are there any (positive or negative) implications of European regulation for British labour migration management?

Guarantee of anonymised and scientific use of interview data

Due to the fact that I am not a native speaker I would like to kindly ask for your permission to digitally record our interview which would largely facilitate my studies and scientific analysis. I offer to send you a transcribed version of the interview for your corrections and approval, if you wish. I herewith guarantee the anonymisation of the interview data from the outset, no interviewees will be personally identifiable in the thesis or any work published from the thesis. The interview data will be securely stored and exclusively used for scientific purposes.

Signature: Bath, _____, _____ (Regine Paul, PhD candidate)

Table A2: List of Policy Documents Analysed (Legal Mapping)**GERMANY****Key policy**

Bundesrepublik Deutschland (2004): Gesetz zur Steuerung und Begrenzung der Zuwanderung und zur Regelung des Aufenthalts und der Integration von Unionsbürgern und Ausländern (Zuwanderungsgesetz). Berlin, Bundesgesetzblatt.

Further guidelines and specifications

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Table A3: List of Interviews**GERMANY**

- GER1: Migration expert at German Trade Union Association (*Deutscher Gewerkschaftsbund, DGB*), 1 December 2009, Berlin
- GER2: Official at Government High Representative for Migration (*Bundesbeauftragte für Migration und Flüchtlinge*), 1 December 2009, Berlin
- GER3: Senior official at Labour Ministry (*Bundesministerium für Arbeit und Soziales*), 2 December 2009, Berlin
- GER4: Member of Expert Commission on Migration (*Unabhängige Kommission 'Zuwanderung'*), 4 December 2009, Berlin
- GER5 and GER6: Officials at Labour Ministry, 7 December 2009, Bonn
- GER7 and GER8: Migration experts at German Employers' Association (*Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA*) 14 December 2009, Berlin
- GER9: Former Home Secretary (*Bundesministerium des Innern*), 14 December 2009, Berlin
- GER10: Senior official at Home Office, 15 December 2009, Berlin

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- FRA1: Senior official at Migration Ministry (*Ministère de l'Immigration, de l'Intégration, de l'Identité Nationale et du Développement Solidaire*), 19 April 2010, Paris
- FRA2: Official at Regional Employment Administration Office (*Direction Départementale du Travail, de l'Emploi, et de la Formation Professionnelle Paris*), 21 April 2010, Paris
- FRA3: Migration expert at Trade Union (*Confédération française démocratique du travail, CFDT*), 23 April 2010, Paris
- FRA4: Expert at migration advocacy organisation (*GISTI*), 28 April 2010, Paris
- FRA5: Official at National Migration Office (*Office Française de l'Immigration et de l'Intégration, OFII*), 29 April 2010, Paris
- FRA6: Senior official at Migration Ministry, 3 May 2010, Paris
- FRA7: Migration expert at Employers' Association (*Mouvement des Entreprises de France, Medef*), 5 May 2010, Paris

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- UK1: Migration expert at Employers' Association (*Confederation of British Industry, CBI*), 4 November 2010, London
- UK2: Migration expert at Trade Union Congress (*TUC*), 4 November 2010, London
- UK3: Representative of high-skills focused Sector Skills Council, 5 November 2010, London
- UK4: Expert at Migration Advisory Committee (*MAC*), 5 November 2010, London
- UK5: Official at UK Border Agency, 17 November 2010, London
- UK6: Representative of low-skills focused Sector Skills Council, 13 December 2010, York
- UK7: Expert at MAC, 8 April 2011, London
- UK8: Former Home Secretary, Home Office, 11 May 2011, London

Table A.4: German Labour Migration Policy: Historical Landmarks

Year		Other Developments
1945	End of World War II (followed by period of economic growth with growing labour demand)	
50s-60s	<i>Recruitment agreements</i> with Italy (1955), Greece and Spain (1960), Turkey (1961), Morocco (1963), Portugal (1964), Tunisia (1965) and Yugoslavia (1968)	(1961) construction of Berlin Wall and GDR border ceases labour supply to the West
1974	Official <i>suspension of recruitment</i> ; principle of <i>labour market preference</i> of German (and later European) workers applied since then with some sectoral exceptions	(1973) Oil crisis and fears of economic recession
1978	Introduction of <i>permanent residence permit</i> and <i>settlement permit</i> for migrants accounts for settlement realities; inauguration of a <i>High Representative for Immigration and Integration</i>	
1990	<i>Ethnic German Reception Law</i> introduces stricter conditions for acquisition of nationality for ethnic Germans <i>Bilateral agreements (Anwerbeabkommen)</i> for shortage recruitment from Poland, later with Hungary, Croatia, Slovenia, Bosnia, Macedonia, Romania, the Czech Republic, Slovakia, Bulgaria, Latvia, Turkey, and Serbia and Montenegro	(1989) Fall of the Berlin Wall and German unification
1992	<i>Asylum compromise</i> limits entry and welfare for asylum seekers ('safe third country' principle) (see Menz 2009) Persecutions of foreign residents in Mölln and arson of an asylum seekers' home in Rostock by far-right extremists	Maastricht Treaty signed, creating European citizenship
1993	Annual maximum <i>entry quota</i> established for ethnic German newcomers (200,000)	
1999	Social Democrat-Green Coalition proposes paradigm change in citizenship and integration policy with more elements of <i>ius solis</i> and dual citizenship model (watered down in a compromise with the Conservatives in the second legislative chamber)	(1998) Social Democrat-Green government elected into office, partly with reform agenda in migration and citizenship policy

Sources for tables A4-A6: author's own compilation from various policy documents and secondary literature used in chapter 5 case reviews (drawing especially on Menz 2009, and for France Hargreaves 2007)

Table A.4 continued: German Labour Migration Policy: Current Policy Trends

Year		Other developments
2000	<i>Green Card initiative</i> to attract IT specialists officially breaks with 'no country of immigration' paradigm and introduces a rhetoric of labour shortages and need to recruit from abroad	
2002	<i>Süssmuth-Commission</i> on migration (set up by Home Secretary Otto Schily in 2000 to form a cross-party consensus on citizenship and migration policy) presents report proposing active recruitment through a points-based system, a liberalisation of citizenship laws and more integration measures for foreign residents	Security focus after 9/11 terror acts in 2001
2004	Decision to phase in free movement for A8-workers gradually until 2011 with temporary labour market restrictions	EU accession of 10 new member states
2005	<i>Migration Law</i> comes into force after political negotiations across parties, it establishes two access routes for professionals	
2007	Decision to phase in free movement for A2 gradually with temporary labour market restrictions until 2014	EU accession of Bulgaria and Romania
2009	<i>Amendment of Migration Law</i> increases attractiveness for high-skilled migrants: secure residence status for foreign graduates from German universities (job search visa), lower earnings threshold for high-skilled permanent residence permit, and easier access to labour market for tolerated foreign residents (<i>Geduldete</i>) with at least vocational education	Global financial and economic crisis starting with bank bankrupts after real estate crisis in the US
2010/11	Ministers of Business, Labour and Social Affairs, and Education and Science jointly demand <i>easier recruitment</i> of skilled and high-skilled workers, especially a lower earnings threshold for high-skilled permanent residence permit and the reconsideration of a points-based system	

Table A.5: French Labour Migration Policy: Historical Landmarks

Year		Other Developments
1904-06	First <i>guest-worker recruitment agreements</i> with Italy (1904, 1906), Belgium and Poland (1906)	
1919-20	New recruitment agreement with Italy (1919) and Czechoslovakia (1920) Establishment of <i>Société Générale d'Immigration</i> to organise guest-worker recruitment	
1945	<i>Ordonnance</i> executive order regulates conditions for new entries, residence, but also access to citizenship; <i>Office Nationale de l'Immigration</i> (ONI) organises recruitment and issues residence and work permits to foreign workers (often ex-post)	End of World War II (followed by period of economic growth with growing labour demand)
1950s-60s	<i>Recruitment agreements</i> with Italy, Portugal, Spain, Belgium, Germany, Poland and Russia; after Algerian Independence also with Tunisia and Morocco (1963)	(1956) Moroccan and Tunisian Independence; (1960) independence of Sub-Saharan colonies
1962	<i>Agreements of Evian</i> end Algerian War and revise French citizenship for Algerians, free movement rights in France for Algerian nationals maintained	Algerian Independence after Colonial War
1974	Official <i>suspension of recruitment</i> ; principle of <i>labour market preference</i> of French (and later European) workers applied since then with some sectoral exceptions; Establishment of <i>Secretary of State for immigration</i> under liberal-conservative President Valéry Giscard d'Estaing	(1973) Oil crisis and fears of economic recession
1980	' <i>Bonnet Law</i> ' introduces concrete job offer as criteria for labour admissions in certain sectors (upholding the principle of labour market preference of French workers); unemployment can now lead to expulsion	
1981-82	<i>Regularisation</i> of approx. 105,000 workers as residents	
1984	Creation of ten year combined work and residency permit valid for most immigrant residents; automatic access to this residence permit after 10 years of permanent residence functioning as de facto legalisation of irregular workers and residents (abolished in 2006)	(1983/84) Successes of right-extreme Front National in local and European elections
1986	<i>Pasqua Laws I</i> limit eligibility criteria for work and residence permits	(1989) Fall of the Berlin Wall
1992	Law amendment sanctions irregular employment, entry and residence	Maastricht Treaty signed, creating European citizenship
1993	<i>Pasqua Laws II</i> elaborate restrictive tools to achieve 'zero immigration', especially hard restrictions for irregular residents and access to regular status rendered much more difficult	
1997	<i>Partial regularisation</i> of foreign workers (<i>sans-papiers</i>) after initiative of Prime Minister Lionel Jospin (Socialist Party); <i>Weil reports</i> recommend strengthening of <i>ius solis</i> aspect of citizenship, asylum and family reunion rights	(1996) Hunger strikes and sit-ins of ' <i>sans-papiers</i> ' for regularisation

Table A.5 continued: French Labour Migration Policy: Current Policy Trends

Year		Other developments
1998	<i>Chèvenement Law</i> introduces some facilitation of labour entries for highly qualified (scientists) <i>Circulaire</i> advises a fast-track dealing with residence applications of IT specialists to local authorities	Multi-ethnic French soccer team wins World Cup
2004	Decision to phase in free movement for A8-workers gradually with temporary labour market restrictions Proposal to create a single authority for migration issues (later OFII, see below); plans published to introduce a reception and integration contract for newcomers (<i>Contrat d'accueil et de l'intégration</i> , CAI) and strengthen assimilation approach	Security focus after 9/11 terror acts in 2001 EU accession of 10 new member states (2005) Urban riots in Parisien 'banlieues', involving mainly ethnic minority youths
2006	<i>Sarkozy Law II</i> as initial legal return to selective recruitment ('immigration choisie') of foreign workers; creates new permits for 'compétences et talents', 'jeunes professionnels', 'salariés en mission' etc. which are exempt from labour market preference checks; abolishes automatic access to permanent residence after ten years of de facto residence for irregular workers; official establishment of the integration contract (CAI) as obligation for newcomers including language learning requirements	
2007	<i>Hortefeux Law</i> introducing a procedure of exceptional regularisation via employment on a case to case basis in professions and regions with labour shortages (<i>liste de métiers</i>); second more encompassing shortage list for Bulgarians and Romanians; strengthening of assimilation requirements (language and 'value test') for family reunion Decision to phase in free movement for A2 gradually with temporary labour market restrictions until 2014	Election of Nicolas Sarkozy as French President Creation Ministry of Immigration, Briand Hortefeux becomes its first Minister EU accession of Bulgaria and Romania
2008	Minister Hortefeux implements idea of a <i>shortage list of 30 professions</i> 'under recruitment pressure' for several regions valid for TCN workers (a list of 150 professions had been issued before for EU-nationals) Ratification of first <i>migration management agreement</i> with Gabon	
2009	Creation of <i>Office Française de l'Immigration et de l'Intégration</i> (OFII, substituting ANAEM) to organise foreign labour recruitment and family reunion; Ratification of first <i>migration management and co-development agreements</i> with Benin, Congo-Brazzaville, Senegal, Tunisia establishes country-reserved shares in labour entries and cooperation requirements regarding expulsion of irregular residents to sending country	Global financial and economic crisis starting with bank bankrupts after real estate crisis in the US
2010	Ratification of <i>migration management and co-development agreement</i> with Mauritius; agreements further signed with Burkina Faso, Cameroon, Cape-Verde and Russia	Abolition of Ministry of Immigration in cabinet reshuffle

Table A.6: UK Labour Migration Policy: Historical Landmarks

Year		Other Developments
1945	End of World War II (followed by period of economic growth with growing labour demand)	
1940s	Increasing 'internal' labour movements from Ireland and the Commonwealth, returns of emigrants from the former colonies responds to labour demand; active recruitment of workers from colonies into the NHS led by Colonial Office <i>British Nationality Act</i> (1948) creates citizenship 'of the United Kingdom and Colonies'	(1947) Indian Independence (1948) Creation of National Health Service, NHS
1950s-60s	Continuation of liberal 'internal' recruitment approach of perceived fellow citizens, including from former colonies	Independence of most Asian, Middle Eastern colonies and most Sub-Saharan colonies (1958) Notting Hill Race Riots question state of multiculturalism and indicate increasing tensions
1962	<i>Commonwealth Immigration Act</i> introduces work entry voucher system with quotas for Commonwealth citizens born outside the UK without British passports and limits their free movement in the former Empire	
1971-73	<i>Immigration Act</i> further distinguishes between British nationals and Commonwealth descendants by introducing so-called <i>patriality</i> principle and limiting <i>right of abode</i> to those with sufficiently strong family ties to the British Islands (1971) Ban on admitting unskilled and low-skilled foreign workers from outside the European Economic Community (1972)	(1973) Oil crisis and fears of economic recession
1980-82	<i>British Nationality Act</i> (1981) finally solidifies distinction between British nationals and nationals of other Commonwealth countries; the latter are no longer 'British subjects' and need visas to enter and live in the UK from now on	Independence of Rhodesia (Zimbabwe) and New Hebrids (Vanuatu) in 1980, and Independence of Belize in 1981 largely ends British Empire; (1982) Falkland War with Argentina
1989		Fall of the Berlin Wall
1990s	Several asylum bills throughout the decade fast-track procedures, limit rights to appeal against asylum decisions, tighten requirements for refugee status, introduces carrier sanctions, and strengthens control aspects of migration and asylum policy more generally (see Menz 2009)	(1992) Maastricht Treaty signed, creating European citizenship (1997) Hand-Over of Hong Kong to China marks end of Empire

Table A.6 *continued*: UK Labour Migration Policy: Current Policy Trends

Year		Other developments
2002/03	Introduction of <i>Highly Skilled Migration Programme</i> (HSMP) and a <i>Sectors-Based Scheme</i> (SBS) for lower-skilled migration facilitates recruitment and provokes increasing professional entries Introduction of culture and language test as requirement for naturalisation; further restrictions for asylum seekers (complete exclusion from benefit eligibility) based on White paper (see Menz 2009)	Labour government elected into office in 1997 Security focus after 9/11 terror acts in 2001
2004	Decision to enable free movement for A8-workers from Eastern Europe from Day 1 of EU accession, followed by substantial work inflows mainly from Poland, Lithuania and Slovakia	EU accession of 10 new member states
2005	White paper "Controlling our Borders: Making Migration Work for Britain" plans <i>points-based system</i> (PBS) to facilitate complex work permit system; emphasises "employer-led" recruitment and economic utility of migrant workers Further restrictive policies for family reunion, asylum, settlement, and border control (e.g. electronic fingerprints) introduced	
2007	Decision to phase in free movement for A2 more gradually with temporary labour market restrictions until 2014 for lower-skilled workers	EU accession of Bulgaria and Romania
2008	<i>PBS</i> consolidates entry routes into a 5-Tier system (detailed delineation in chapter 6) and facilitates professional entries; yet, suspension of low-skilled Tier 3 of the PBS and exclusive reliance on EU-internal recruitment in the relevant sectors Set-up of the <i>Migration Advisory Committee</i> (MAC) to consult government on migration issues and labour shortages	
2009	Prime Minister Gordon Brown infamously demands 'British jobs for British workers' in climate of economic downturn and increasing unemployment	Global financial and economic crisis starting with bank bankrupts after real estate crisis in the US
2010	Restrictive changes to the PBS with stricter admission criteria, such as higher qualification and earning requirements; Home Secretary Theresa May announces a reduction of new inflows to the 'tens of thousands not hundreds of thousands' until 2014	Conservative-Liberal Democrat government elected into office; Prime Minister Cameron partly campaigning on a restrictive migration agenda
2011	Introduction of an annual cap for most Tier 1 and Tier 2 entries after consultation process led by the MAC Reduction of the Shortage List for Tier 2 skilled entries to graduate skill level only	

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